



# Anti-money laundering and counter-terrorist financing measures

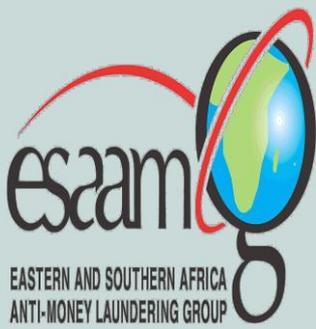
## Seychelles

5<sup>th</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating

September 2021

Follow-Up Report





The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 19 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, GIZ, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

ESAAMLG's members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

For more information about the ESAAMLG, please visit the website: [www.esaamlg.org](http://www.esaamlg.org)

This document and/or any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

**This report was approved by the ESAAMLG Task Force of Senior Officials at the September 2021 virtual meeting.**

Citing reference:

ESAAMLG (2021), *Anti-money laundering and counter-terrorist financing measures - Seychelles*, 5<sup>th</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating, ESAAMLG, Dar es Salaam

<http://www.esaamlg.org>

© 2021 ESAAMLG. All rights reserved.

**No reproduction or translation of this publication may be made without prior written permission. Applications for such permission, for all or part of this publication, should be made to the ESAAMLG Secretariat, P. O. Box 9923, Dar es Salaam-United Republic of Tanzania Tel: +255 22 2667895/7679**

**Fax No: +255 22 2668745**

**Email: [executivesec@esaamlg.org](mailto:executivesec@esaamlg.org)**

# SEYCHELLES: 5<sup>th</sup> ENHANCED FOLLOW-UP REPORT & REQUEST FOR RE-RATING

## I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Seychelles was adopted by the Task Force and approved by the Council of Ministers in September 2018. This follow-up report assesses the progress made by Seychelles to resolve the technical compliance shortcomings identified in its MER. In general, countries are expected to have corrected most or all of their technical compliance shortcomings by the end of the third year of follow-up at the latest. This report does not cover the progress made by Seychelles in improving its effectiveness. Progress in this area will be assessed as part of a subsequent follow-up assessment. If sufficient progress has been made, the Immediate Outcome ratings may be reviewed.
2. The assessment of Seychelles' request for technical compliance re-ratings and the preparation of this report were undertaken by the following experts (Supported by ESAAMLG Secretariat: Joseph Jagada, Muluken Yirga Dubale and Bhushan Jomadar):
  - Zenobia Barry (Namibia)
  - Susan Mangori (Botswana)
  - Motsisi Mongati (Botswana)
  - Didimalang Segaiso (Botswana)
  - Titus Mulindwa (Uganda)
  - Francesca Brito (Angola)
  - Evans Siziba (Zimbabwe)
  - Clara Hwata (Zimbabwe)
  - Marina Pascal (Madagascar)
3. Part 3 of this report summarises the progress made by Seychelles on technical compliance. Part 4 sets out conclusions and contains a table of Recommendations for which a new rating has been given.

## II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

4. The MER<sup>1</sup> rated Seychelles technical compliance ratings as set out in Table 1 below. In the light of these results, Seychelles was placed in the enhanced follow-up process<sup>1</sup>:

---

<sup>1</sup> Mutual Evaluation Report (MER) of Seychelles, September 2018, <https://esaamlg.org/reports/MER-Seychelles-September%202018.pdf>

**Table 1. Technical compliance ratings<sup>2</sup>, September 2018**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	PC	LC	PC	PC	PC	NC	NC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	LC	C	C	NC	PC	LC	C	PC	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	LC	PC	PC	LC	PC	PC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	LC	PC	PC	PC	C	PC	NC	PC	LC

### III. OVERVIEW OF PROGRESS IN TECHNICAL COMPLIANCE

#### 3.1 Progress in resolving the technical compliance deficiencies identified in the MER/FUR

- Since the adoption of its MER in September 2018, Seychelles has taken measures aimed at addressing the technical compliance deficiencies identified in its MER. As a result of this progress, 3 Recommendations were re-rated (upgraded) to LC and C as highlighted in the Table 2 below.

**Table 2. Technical compliance Re-ratings, December 2020**

Recommendations and Corresponding Ratings									
R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
<b>C</b>	PC	LC	PC	PC	PC	NC	NC	C	LC
R11	R12	R13	R14	R15	R16	R17	R18	R19	R20
C	LC	C	C	NC	PC	LC	C	PC	C
R21	R22	R23	R24	R25	R26	R27	R28	R29	R30
C	LC	LC	LC	PC	<b>LC</b>	LC	PC	<b>LC</b>	C
R31	R32	R33	R34	R35	R36	R37	R38	R39	R40
C	LC	PC	PC	PC	C	PC	NC	PC	LC

<sup>1</sup> Enhanced follow-up is based on the traditional ESAAMLG policy for members with significant shortcomings (in technical compliance or effectiveness) in their AML/CFT systems, and involves a more intense follow-up process

<sup>2</sup> Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Re-ratings in **red italics** for December 2020.

**3.1.1 RECOMMENDATION 2 – NATIONAL COOPERATION AND CO-ORDINATION**  
(Originally rated PC- re-rated to Largely Compliant)

6. The main shortcomings identified in the MER were as follows: a) there were no PF domestic cooperation and coordination mechanism in place; and b) there is no co-operation and co-ordination mechanisms in place to ensure AML/CFT requirements comply with data protection and privacy rules.
7. One of the functions of the NAC is to ensure cooperation and coordination amongst relevant authorities in combating PF under the newly introduced section 7(o) of the AML/CFT (Amendment) Act 2021. However, the law does not define as to what the relevant authorities are. There are no also mechanisms of cooperation and coordination for PF. **For this purpose, c.2.4 is Mostly Met.**
8. Seychelles has amended its AML/CFT Act 2020, section 7(n) of the AML/CFT (Amendment) Act 2021 which now provides the fostering of cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and any similar provisions. **Hence, c.2.5 has been met.**

*Weighting and Conclusion*

9. Seychelles has relevant legal instruments which now enable the competent authorities to cooperate and coordinate on matters of PF and to ensure compatibility of AML/CFT requirements with data protection and privacy rules and any similar provisions. However, the AML/CFT Act does not provide for the areas of cooperation and coordination to be implemented for PF.
10. **Based on the foregoing, Seychelles' rating for Recommendation 2 has been upgraded to Largely Compliant.**

**3.1.2. RECOMMENDATION 7 – TARGETED FINANCIAL SANCTION RELATED TO PROLIFERATION** (Originally rated NC- re-rated to Partially Compliant)

11. The deficiencies identified in the MER were that there are no measures for implementation of targeted financial sanctions relating to the prevention suppression and disruption of proliferation of weapons of mass destruction and its financing.
12. Section 20D of the Prevention of Terrorism (Amendment) Act 2021 now provides for the implementation of the UNSCR adopted under Chapter VII of the Charter of the UN relating to terrorism and terrorist financing and relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

Seychelles has also promulgated the Prevention of Proliferation Financing Regulations 2021 for the implementation and enforcing TFS. However, the principle of implementing the targeted TFS ‘without delay’ has not been defined in terms of time setting. The amendment brought to the PTA is limited only to the freezing measures to be undertaken without delays but not extended to other measures regarding TFS. UN designations implemented under Reg 8 of the PTA Regulations 2015 were not in line with the FATF Recommendation, the process is not automatic as the information received from the Seychelles mission to the UN is first submitted to the Ministry for Foreign Affairs. The Ministry of Foreign Affairs upon receipt then submit the list to the Secretary to the National Countering Financing of Terrorism Committee (NCFT Committee) and the Director of the FIU. The NCFT Committee then circulate to the other members of the Committee and publish the list on one or more competent authority’s website and the director of the FIU circulate the list to all supervisory authorities and Registrar of Associations. The obligation to implement UN designations starts at the time of the publication and circulation of the list by both the NCFT Committee and the Director of the FIU. Further, the scope of the law is only in relation to UNSCR 1718 DPRK and not the other Resolutions, including 2231 mentioned under the FATF Recommendation. **For this purpose, c.7.1 is Partly Met.**

13. The PTA and its regulation as well as the AML Act are the legal authorities for CPF. The Laws designate the Ministry of Internal Affairs, the National Countering Financing of Terrorism Committee and the Attorney General as the competent authorities on TFS in relation to CPF. Seychelles has amended Section 20D (2) of the Prevention of Terrorism (Amendment) Act 2021 which now provides for all natural and non-natural persons within Seychelles to freeze property of designated entities (which also includes individuals by definition under the PTA) without delay and without prior notice. But as indicated above, there is nowhere under these acts as to what without delay means and the Reviewers could not make a determination on the prescribed timelines for freezing.–The freezing obligation is now extended to funds and other assets as defined under the AML/CFT Act 2020 and meets the requirements of criterion 7.2(b). The definition of ‘property’ is broad enough to cover the “funds and other assets” as per the FATF Standards and also includes virtual assets. With the amendment brought through Section 20H (1) of the Prevention of Terrorism (Amendment) Act 2021, the law now provides the power to the Minister to prohibit making funds available to any Seychellois or any citizens of Seychelles residing outside Seychelles whenever there is a reasonable ground to do so but does not extend to non-Seychellois. However, the ‘reasonable ground’ condition limits the implementation of the requirements of C7.2(c) which requires the action to be taken automatically upon designation by the relevant UN

Sanctions Committee. In terms of Section 20E (3) of the Prevention of Terrorism (Amendment) Act 2021, once a designation has been made, the designation shall be communicated to all FIs and DNFBPs with the guidance in taking action for freezing such funds or assets. However, the law does not set the timeline as to whether this should be done immediately upon designation or not. Section 20(E)(3) of the PTA requires the FIS and DNFBPs to report to their respective supervisory authority of the freezing of any assets or any action taken in compliance with the designation. However, the reporting obligation under the law does not extend to attempted transactions. Section 20F of the Prevention of Terrorism (Amendment) Act 2021 provides for the protection of the rights of *bona fide* third parties acting in good faith. **For this purpose, c.7.2 is Partly Met.**

14. Moreover, Section 20G(1) of the Prevention of Terrorism (Amendment) Act 2021 now provides for measures for monitoring and ensuring compliance by FIs and DNFBPs with the AML/CFT Act 2020 and non-compliance will subject FIs and DNFBPs to criminal sanctions as provided under section 20G(2). **Hence, c.7.3 has been met.**

15. The NCFT Committee has the power to review the designation list on an annual basis and to consider whether there are still reasonable grounds for any order in relation to each specified entity and that entity may apply to the Attorney General seeking revocation of the order to be a designated entity under Regs 4 of the Prevention of Proliferation Financing Regulations 2021. However, the time set to review the list on annual basis is not consistent with the requirements of C7.4(a) as the reviewing process should normally follow the decision of the Focal Point at any time of interval. Moreover, Sub-regulations 10 and 11 of the same Regulation require the submissions to be made to either the Ombudsperson or Focal Point instead of only to the Focal Point for delisting as required under UNSCR 1730. In the case of a mistaken identity an application to the AG or the Committee can be made for removal from the list under case Reg 4(6)(a) of the Prevention of Proliferation Financing Regulations 2021. The Committee under Regs 4(7) will then recommend to the AG for the deletion of the name of the entity appearing on the sanctions list and the AG may recommend the Minister to issue an order for removing the name from the list and under Reg 4(8) and where the order has been issued the Director shall within 24 hours of the order circulate notice of the deletion to all concerned parties. Where a notice of deletion has been circulated under Reg 4(8) this shall have the effect of revoking any freezing order or any other sanction imposed. However, this legal process does not involve the relevant UNSC body as required under this Recommendation. ~~the Standard.~~ An entity which requires fund to cover its basic and necessary or extraordinary expenses may make an application for that purpose to the NCFT Committee under Regulation 5(2- 8) of the Prevention of Proliferation Financing Regulations 2021. However, this legal

process does not involve the relevant UNSC body as required under the Standard and the relevant UNSC Resolutions and Procedures whereby a country is required to submit the petition to the UN Security Council (through the focal point). In terms of Reg. 4(8), a notice of delisting will be communicated expeditiously to the respective FIs and DNFBPs that may be holding targeted funds or other assets pursuant to Regs 4(9) of the Prevention of Proliferation Financing Regulations 2021. **For this purpose, c.7.4 has been Partly met.**

16. Seychelles has promulgated the Prevention of Proliferation Financing Regulations 2021. Under Regs 6 where an account has been frozen pursuant to UNSC resolutions 1718 or 2231 all interests accrued on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which the accounts became subject to the provisions of the UNSCR 1718 or 2231, will be included in the frozen accounts and the accrued interest or the earnings shall also continue to be frozen. Reg 7 of the Prevention of Proliferation Financing Regulations 2021 meets the requirements of criterion 7.5(b). **Hence, c.7.5 has been met.**

#### *Weighting and Conclusion*

17. Seychelles has amended Prevention of Terrorism Act through the Prevention of Terrorism (Amendment) Act 2021 which now provides for the implementation of the UNSCR adopted under Chapter VII of the Charter of the UN relating to terrorism and terrorist financing and relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing and has promulgated The Prevention of Proliferation Financing Regulations 2021 for the implementation and enforcing TFS. However, the principle of implementing the targeted TFS 'without delay' has not been provided which is key element for implementation of TFS. Moreover, the without delay element is only in relation to freezing measures but not extended to other measures regarding TFS; the scope of the law on TFS measures is only in relation to UNSCR 1718 DPRK and not the other Resolutions. Moreover, there are legal processes to be followed which are not consistent with the requirements of Rec.7 with regards to the delisting process.

**18. Based on the foregoing, Recommendation 7 has been upgraded to Partially Compliant.**

### **3.1.3 RECOMMENDATION 16 – WIRE TRANSFERS** (Originally rated PC- re-rated to Largely Compliant)

19. The limit identified under the MER were that: a) there are no specific obligations for ordering FIs to include full beneficiary information in cross border batch files; b) there was no specific requirement for ordering FIs to be required to include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary; c) there is no specific obligation for intermediary FIs to comply with cross border wire transfer obligations set out in the criteria; d) there is no specific obligation for intermediary FIs to comply with cross border wire transfer obligations set out in the criteria; e) there were no specific requirement for FIs to take reasonable measures which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information; f) there were no specific requirement for intermediary FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and appropriate follow-up action; g) there is no specific requirement for FIs to take reasonable measures which include post- event monitoring or real time monitoring to identify cross- border wire transfers that lack complete originator information or required beneficiary information; h) there is no specific obligation for FIs carrying out cross border wire transfers of US\$1, 000, or more to verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with R.11; i) there is no specific requirement for beneficiary FIs to have risk- based policies and procedures for determining when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and have appropriate follow- up action; j) there are no a specific requirement for MVTs providers to comply with the requirements of R.16 in all countries where they operate directly or through agents; k) there are no specific obligation for MVTs providers to take into account all the information from both the ordering and beneficiary FIs in order to determine whether an STR has to be filed, file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the FIU.

20. Seychelles has made amendments to the AML/CFT Act 2020. The amendments to the AML/CFT Act have not impacted on the criteria which had been rated as Met in the MER Banks and Class A Bureau De Changes act as intermediary and beneficiary in wire transfers' operations and they therefore fall within the definition of reporting entities under Schedule 1 of the same Act. Section 45 (2)(b) of the Act provides where cross border transfers are concerned, where individual transfers from a single originator are bundled in a batch file, the originator account number, full beneficiary information and the unique transaction number including full details of the originator information

traceable in the recipient jurisdiction should be recorded for a minimum period of 7 years. **Hence, c.16.2 has been met.**

21. Moreover, Section 45(2) of the AML/CFT Act 2020 provides specifically for ordering FIs to be required to include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. Though the law requires the ordering financial institution to provide information with the FIU and the AGO upon request, it does not require the same to be done for the other appropriate authorities and beneficiary FIs. Moreover, there is no a prescribed timeline for providing the requested information as per the requirements of the Standard. **Hence, c.16.6 has been partly met.**
22. The amendment brought to section 45(6) in the AML/CFT (Amendment) Act 2021 (Act 7 of 2021) now provides for intermediary FIs to include originator and beneficiary information relating to cross border wire transfers to be retained. **Hence, c.16.9 has been met.**
23. The amendment brought through s. 45A of Act 7, 2021 now requires FIs to keep records of all the information received from the ordering FIs or another intermediary FI for at least 7 years pursuant to section 47 of the AML/CFT Act 2020. **Hence, c.16.10 has been met.**
24. Furthermore, Section 45(7) has been amended through Act 7 of 2021 to require reporting entities, including reporting entities that are acting as intermediary FIs to take reasonable measures with respect to wire transfer (post-event monitoring or real time monitoring, where feasible) which may lack originator or beneficiary information. Section 45(6) as amended through the AML/CFT (Amendment) Act 2021 requires all reporting entities irrespective of whether they are acting as intermediary and beneficiary, while processing an intermediary element of a domestic and cross border wire transfer to retain the originator and beneficiary information linked with the transfer. **Hence, c.16.11 has been met.**
25. With regards to risk based policies and procedures for intermediary FIs, Section 45(8) has been amended through Act 7 of 2021 and now requires intermediary FIs to have risk based policies and procedures for determining when to reject, suspend or execute wire transfers lacking the required originator and beneficiary information and take appropriate follow-up actions. **Hence, c.16.12 has been met.**
26. Now FIs are required to take reasonable measures which include post event monitoring or real time monitoring pursuant to the amendment brought through Act 7 of 2021 to Section 45(7) of the AML/CFT Act 2020 to identify cross-border wire transfers that lack originator and beneficiary information. **Hence, c.16.13 has been met.**

27. Section 45(5) of the AML/CFT Act 2020 requires reporting entities generating a wire transfer (i.e, beneficiary FIs) to ensure that the identity of the beneficiary has been verified, where the identity has not been previously verified as per section 45(5) of the AML/CFT Act 2020. The same law further requires the beneficiary financial institutions to hold the particulars of the originator and beneficiary on all domestic/cross border wire transfers. There is no threshold on this obligation. The expert reviewers are of the view that the phrase 'FIs generating wire transfers' as used under the law should be understood to mean the FIs which generate wire transfer related transactions from their system once the transfer is made by the ordering FIs, which according to the reading of the provision should be the *beneficiary FIs*. This is moreso when consideration is made that the ordering and intermediary FIs have their own specific requirements under sections 45(1) and 45(6), respectively under the same law. In view of this, the Expert Reviewers concluded that the whole spirit of section 45 in general, and 45(5) in particular, is mainly dealing with beneficiary FIs. **Hence, c.16.14 has been Met.**

28. Section 45(8) has been amended through Act 7 of 2021 and now requires reporting entities processing an intermediary element of a wire transfer or receiving a wire transfer to have risk-based policies and procedures to determine whether to reject, suspend or execute cross-border or domestic wire transfers. The AML/CFT Act 2020 does not make a distinction between the originator or beneficiary institution as the provision related to wire transfers applies to both entities which are reporting entities under the same Act. **Hence, c.16.15 has been Met.**

29. With the amendment brought to the AML/CFT act 2020 through Act 7 of 2021, Section 45(9) of the AML/CFT Act as amended through Act 7 of 2021 now requires MVTs providers to comply with the requirements of Rec 16 in all countries where they operate directly or through agents. **Hence, c.16.16 has been met.**

30. Moreover, Section 45(10) of the AML/CFT Act as amended through Act 7 of 2021 now requires MVTs providers to take into account all the information from both the ordering and beneficiary FIs in order to determine whether an STR has to be filed, file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the FIU. **Hence, c.16.17 has been met.**

#### *Weighting and Conclusion*

31. Seychelles has made amendments to the AML/CFT Act 2020. The new amendments to the AML/CFT Act have not impacted on the criteria which had been rated as Met in the MER. Banks and Class A Bureau De Changes act as intermediary and beneficiary in wire transfers' operations and they therefore fall within the definition of reporting entities in terms of the First Schedule of the same Act. The amendment brought to the AML/CFT Act 2020 through Act 7 of 2021, Seychelles has largely addressed the deficiencies identified against Recommendation 16.

**32. Based on the foregoing, recommendation 16 has been upgraded to Largely Compliant**

**3.1.4 RECOMMENDATION 35 – SANCTIONS** (*initially rated PC – re-rated Largely Compliant*)

33. The deficiencies identified under the MER were that: a) there were no administrative and civil sanctions for non-compliance with AML/CFT requirements and that reporting entities under CBS are subject only to remedial actions and consequently criminal sanctions for non-compliance with AML/CFT obligations; b) Sanctions not proportionate and dissuasive and the FIU is not empowered under the AML Act for the FIU to remove senior management, director and employees of reporting entities for contravention of AML/CFT obligations. Reporting entities under CBS are subject only to remedial actions and consequently criminal sanctions for non-compliance with AML/CFT obligations.

34. Section 34 of the PTA provides for criminal sanction for failure to disclose information in relation to terrorist acts. Section 35 of the PTA requires every person to disclose information relating to property of terrorist groups or property used for the commission of offences under the PTA. Although the AML/CFT act has brought in a range of criminal, civil and administrative sanctions. Seychelles does not have a provision for the implementation of TFS without delay, although the authorities have amended the law, the new provision is only limited to freezing and does not cover TFS in general which will have also limited range of sanctions. Moreover, Seychelles was rated non-compliant with the requirements of Rec 8 and although there are some minor amendments made to the legislative framework encompassing NPOs, the laws do not have a range of sanctions to be imposed in case of violations, **For this purpose, c.35.1 remains Mostly Met.**

35. The new AML/CFT act has brought a range of criminal, civil and administrative sanctions that are proportionate and dissuasive, now supervisors have the mandate to impose sanctions, including criminal sanctions on reporting entities, their directors and senior management (sections 57(1)(h), 57(2) and 57(3) of the AML/CFT Act). However, the deficiencies identified against C35.1 would have a cascading effect on C35.2. **Hence, c.35.2 is Mostly met.**

*Weighting and Conclusion*

36. There are still some shortcomings on how the country is able to sanction NPOs that fail to comply with AML/CFT requirements of Rec 8 and the range of sanctions for failure to comply with Rec 6 is limited under the PTA.

**37. Based on the progress made on C35.2, the rating of Recommendation 35 has been upgraded to Largely Compliant.**

**3.1.5 RECOMMENDATION 37 – MUTUAL LEGAL ASSISTANCE** (*initially rated PC – re-rated to Largely Compliant*)

38. The deficiencies identified under the MER were that: a) the law is limited in a sense that rendering MLA with respect to ML offence is only linked to proceeds of drug related offences and laundering of the same (Section 30). There is no legal coverage in respect of rendering MLA in relation to TF. As far as ML and TF are concerned, the two offences are not covered as criminal matters. Prosecution is not covered under criminal investigation; b) Seychelles did not have clear processes for the timely prioritisation and execution of mutual legal assistance requests and there is no case management system maintained to monitor progress on requests.

39. Seychelles has now added the definition of terrorist financing activities in section 2(a)(ii)(ba) of the Mutual Assistance in Criminal Matters (MACM) (Amendment) Act 2021 to align with the definition as provided under sections 2 & 3 of the AML/CFT act 2020 and section 5 of the PTA and as such both ML and TF offences are now covered as criminal matters. Moreover, the definition of criminal investigation has been amended in section 2 (a)(i) of the MACM (Amendment) Act 2021 which now provides that an investigation into criminal matters including ML/TF and associated predicate offenses and institution of the prosecution thereof in such cases where it is believed that an offence has been committed. **Hence, c.37.1 is Met.**

40. Section 6(4) of the MACM (amendment) Act 2021 now provides that notwithstanding anything in any other law in force and subsection (3) of this section and subject section 7 of the MACM Act, any request shall be processed and disposed in a time bound manner. The Central Authority for MLA will be Attorney General who shall maintain a case management system in manual and electronic form under section 6(5) of the MACM (amendment) act 2021. However, the authorities have not provided information on the clear processes for the timely prioritization and the execution of MLA requests. **For this purpose, c.37.2 is Partly Met.**

*Weighting and Conclusion*

41. The amended MACM now provides for the definition of terrorist financing activities and as such both ML and TF offences are now covered as criminal matters and the relevant authorities now have powers to investigate and prosecute those matters. Moreover, the amended MACM also provides for the processing and disposal of MLA requests with the Attorney General being the Central Authority for maintaining the case management. The only minor shortcoming in Recommendation 37 is that the authorities have not provided information on the clear processes for the timely prioritization and the execution of MLA requests.

**42. Based on the foregoing this Recommendation has been re-rated to Largely Compliant**

**3.1.6 RECOMMENDATION 38 – MUTUAL LEGAL ASSISTANCE: FREEZING AND CONFISCATION** (initially rated PC – re-rated to Largely Compliant)

43. The limit identified under the MER were that: a) the scope of confiscation under the domestic laws including AMLA, POCA and Criminal Procedure Code is limited (see the analysis made on Rec 4), moreover, there is no provision on MLA with respect to confiscation of property of corresponding value; b) Under S.35 of AMLA, non-conviction based forfeiture is only limited to cash. The non-conviction based forfeiture under the POCA excludes bank accounts and is limited to property of value with more than SCR 50, 000; c) Seychelles has limited arrangements for coordinating seizure and confiscation actions with other countries under Section 16B (3) of AMLA. There are no mechanisms for managing or disposing of properties subjected to confiscation order; d) There are no provisions providing for sharing of confiscated property with other countries.

44. Seychelles has authority pursuant to Section 6(4) of the MACM(Amendment) Act to take expeditious action in respect of requests made by foreign countries to identify, freeze, seize or confiscate property from or proceeds of serious crime in accordance with section 6(6) of the amended MACM. The definition of property in the Proceeds of Crime (Civil Confiscation) Act is broad enough to cover all types of properties and has been aligned with the AML/CFT Act 2020 to also provide for non-conviction-based confiscation of virtual assets and bank accounts. Where a request has been made by a foreign country for the enforcement of a forfeiture order, this may be enforced by tracing, confiscating or forfeiture of the proceeds of crime under section 27 of the MACM. Moreover section 6(6) of the MACM (Amendment) Act 2021 now provides for forfeiture of any property of corresponding value whereas request has been received from any foreign country, thus, the provision of Section 153A of the Criminal Procedure Code shall apply and the property shall be forfeited as per the provisions of section 153B and 153C. **For this purpose, c.38.1 is Met.**

45. The Proceeds of Crime (Civil Confiscation) (Amendment) Act 2020 has widened the definition of property which has been aligned with Section 2 of the AML/CFT Act 2020 which now includes virtual assets and bank accounts. In view of the amendment, the Seychelles can provide assistance to requests for cooperation made on the basis of non-conviction based confiscation under the POCA and Sections 26 and 27 of the MACM. **Hence, c.38.2 is Met.**

46. The FIU can seek or share any information and may make enquiries on behalf of a foreign counterpart agency under section 29 of the AML/CFT Act 2020, however, this provision is only limited to the foreign FIUs. A law enforcement agency in the Seychelles under section 64(2) of the AML/CFT Act 2020 may collaborate with foreign counterpart agencies to facilitate seizure or confiscation of proceeds of crime. However, Section 64(3) of the same Act is limited to actions to be carried out by the LEA for gathering of documents

only. Moreover, the framework for an asset management which provides for mechanisms for managing or disposing of properties subjected to confiscation orders has only been approved by Cabinet on 17 Feb 2021, however, no further information was provided on whether the framework has been established or is still going through the administrative process. While it is noted that the new mechanisms provide for managing or disposing while the criterion requires a country to manage and when necessary to dispose of property under a confiscation order. **For this purpose, c.38.3 is Partly Met.**

47. Section 6(8) of the MACM (Amendment) Act 2021 now provides for the Seychelles to be able to share confiscated property with other countries, when property confiscated is directly or indirectly a result of coordinated law enforcement actions. **Hence, c.38.4 is Met.**

#### *Weighting and Conclusion*

48. The Proceeds of Crime (Civil Confiscation) (Amendment) Act 2020 has been amended in Section 2 to align the definition of property with the AML/CFT Act 2020 and provides for non-conviction-based confiscation of virtual assets and bank accounts. The definition of property is broad enough to cover all types of properties. Requests for assistance on non-conviction-based confiscation or provisional measures can also be provided in terms of the POCA and MACM. A LEA under section 64(2) of the AML/CFT Act 2020 may collaborate with foreign counterpart agencies for facilitating seizure or confiscation of proceeds of crime whereas the criterion requires for both seizure and confiscation. However, reading section 64 of the AML/CFT Act 2020 seems to be limited to actions to be carried out by the LEA for gathering of documents only. Furthermore, the authorities have indicated that the framework for an asset management which provides for mechanisms for managing or disposing of properties subjected to confiscation order was only been approved by Cabinet on 17 February 2021. It is noted that the new mechanisms provide for managing or disposing while the criterion requires a country to manage and when necessary to dispose of property under a confiscation order.

**49. Based on the foregoing and the deficiencies identified, the ratings of Recommendation 38 is upgraded to Largely Compliant.**

#### **3.1.7 RECOMMENDATION 39 – EXTRADITION** *(initially rated PC – re-rated to Largely Compliant)*

50. The deficiencies identified under the MER were that: a) the offence of TF has not been provided as an Extraditable offence and (b) there is no proper case management system.

51. Section 4(5)(c) of the Extradition (Amendment) Act 2021 now provides for TF offences to be extraditable in Seychelles. It is also noted that section 17(4) provides for the Attorney General to maintain a case management system. However, the authorities have not

provided information on the processes for the timely execution of the extradition request.  
**For this purpose, c.39.1 is Mostly Met.**

*Weighting and Conclusion*

52. The law now provides for TF offences to be extraditable in the Seychelles and the Attorney General is the authority maintaining a case management system but the outstanding minor deficiency is that no information has been provided on the processes for the timely execution of an extradition request.

**53. Based on the foregoing, the rating of Recommendation 39 is upgraded to Largely Compliant.**

**IV. CONCLUSION**

54. Seychelles has made significant overall progress in resolving the technical compliance shortcomings identified in its MER and ratings for 7 Recommendations have been revised. The jurisdiction has addressed the deficiencies in respect of Recommendations 2 (initially rated PC), 7 (initially rated NC), 16 (initially rated PC), 35 (initially rated PC), 37 (initially rated PC), 38 (initially rated PC) and 39 (initially rated PC) and the reviewers recommend to upgrade the rating for Rec. for Recs. 2, 16, 35, 37, 38 and 39 with Largely Compliant (LC) and for Rec.7 with Partially Compliant (PC).

55. Considering progress made by Seychelles since the adoption of its 2<sup>nd</sup> FUR in December 2020, its technical compliance with the FATF Recommendations has been revised as shown in Table 3 below

**Table 3: Technical Compliance Re-ratings September 2021**

Recommendations and Corresponding Ratings									
R1	R2	R3	R4	R5	R6	R7	R8	R9	R10
C	<i>LC</i>	LC	PC	PC	PC	<i>PC</i>	NC	C	LC
R11	R12	R13	R14	R15	R16	R17	R18	R19	R20
C	LC	C	C	NC	<i>LC</i>	LC	C	PC	C
R21	R22	R23	R24	R25	R26	R27	R28	R29	R30
C	LC	LC	LC	PC	<i>LC</i>	LC	PC	<i>LC</i>	C
R31	R32	R33	R34	R35	R36	R37	R38	R39	R40
C	LC	PC	PC	<i>LC</i>	C	<i>LC</i>	<i>LC</i>	<i>LC</i>	LC

*Note:* Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Re-ratings in **red italics** for August/September 2021.

56. Seychelles will remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving and implementing its AML/CFT measures.