



Seychelles
National Risk Assessment Report for
Money Laundering & Terrorist Financing
2017

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DISCLAIMER

"The National Money Laundering and Terrorist Financing (ML/TF) Risk Assessment of Seychelles has been conducted as a self-assessment by Seychelles authorities, using the National ML/TF Risk Assessment methodology that has been developed and provided by the World Bank. The World Bank's role was limited to delivery of the methodology, providing guidance on the technical aspects of the use of the methodology during two workshops, and review/feedback to assist with the accurate use of it. The data, statistics, and information used for completing the National ML/TF Risk Assessment Tool modules, as well as findings, interpretation, and judgment under the scope of National ML/TF Risk Assessment, completely belong to the Seychelles authorities and do not reflect the views of the World Bank Group, its Board of Executive Directors or the governments they represent. Nothing herein shall constitute or be considered to be a limitation upon or waiver of the privileges and immunities of The World Bank, all of which are specifically reserved."

ACRONYMS

| | | |
|---------|---|---|
| AML | - | ANTI MONEY LAUNDERING |
| AMLA | - | ANTI MONEY LAUNDERING ACT |
| AMLR | - | ANTI MONEY LAUNDERING REGULATIONS |
| MLRO | - | MONEY LAUNDERING REPORTING OFFICER |
| BDC | - | BUREAU DE CHANGE |
| CBS | - | CENTRAL BANK OF SEYCHELLES |
| CDD | - | CUSTOMER DUE DILIGENCE |
| CEO | - | CHIEF EXECUTIVE OFFICER |
| CIS | - | CREDIT INFORMATION SYSTEM |
| CRO | - | COMPLIANCE AND REPORTING OFFICER |
| CFT | - | COUNTERING/COMBATTING THE FINANCE OF TERRORISM |
| DBS | - | DEVELOPMENT BANK OF SEYCHELLES |
| DNFBPs | - | DESIGNATED NONFINANCIAL BUSINESSES AND PROFESSIONS |
| DFA | - | DEPARTMENT OF FOREIGN AFFAIRS |
| EDD | - | ENHANCED DUE DILIGENCE |
| ESAAMLG | - | EASTERN AND SOUTHERN AFRICA ANTI-MONEY LAUNDERING GROUP |
| FATF | - | FINANCIAL ACTION TASK FORCE |
| FSSD | - | FINANCIAL SERVICES SUPERVISION DIVISION |
| FIs | - | FINANCIAL INSTITUTIONS |
| FIA | - | FINANCIAL INSTITUTION ACT |
| FIU | - | FINANCIAL INTELLIGENCE UNIT |
| FSA | - | FINANCIAL SERVICES AUTHORITY |
| FSC | - | FINANCIAL STABILITY COMMITTEE |
| FSDIP | - | FINANCIAL SECTOR DEVELOPMENT IMPLEMENTATION PLAN |

| | | |
|--------|---|---|
| FX | - | FOREIGN EXCHANGE |
| HFC | - | HOUSING FINANCE COMPANY |
| IBC | - | INTERNATIONAL BUSINESS COMPANIES |
| IMF | - | INTERNATIONAL MONETARY FUND |
| KYC | - | KNOW YOUR CUSTOMER |
| LEAs | - | LAW ENFORCEMENT AGENCIES |
| ML | - | MONEY LAUNDERING |
| MLA | - | MUTUAL LEGAL ASSISTANCE |
| MLAT | - | MUTUAL LEGAL ASSISTANCE TREATY |
| ML/TF | - | MONEYLAUNDERING / TERRORIST FINANCING |
| MOF | - | MINISTRY OF FINANCE |
| NDEA | - | NATIONAL DRUGS ENFORCEMENT AGENCY |
| NBFFSP | - | NON-BANKING FINANCIAL (OFFSHORE) AND FIDUCIARY SERVICES PROVIDERS |
| NGOs | - | NON GOVERNMENTAL ORGANISATIONS |
| NPOs | - | NON PROFIT ORGANISATIONS |
| NRA | - | NATIONAL RISK ASSESSMENT |
| OECD | - | ORGANISATION FOR ECONOMIC COOPERATION DEVELOPMENT |
| OFIs | - | OTHER FINANCIAL INSTITUTIONS |
| PEPs | - | POLITICALLY EXPOSED PERSONS |
| PI | - | PROFESSIONAL INTERMEDIARY |
| RBA | - | RISK BASED APPROACH |
| RBS | - | RISK BASED SUPERVISION |
| SCU | - | SEYCHELLES CREDIT UNION |
| SDD | - | SIMPLIFIED DUE DILIGENCE |
| SEC | - | SECURITIES AND EXCHANGE COMMISSION |

| | | |
|------|---|-------------------------------------|
| SLA | - | SEYCHELLES LICENSING AUTHORITY |
| SRC | - | SEYCHELLES REVENUE COMMISSION |
| SRO | - | SELF REGULATORY ORGANISATION |
| STR | - | SUSPICIOUS TRANSACTION REPORT |
| TCSP | - | TRUST AND COMPANY SERVICE PROVIDERS |
| TF | - | TERRORIST FINANCING |
| TT | - | TELEGRAPHIC TRANSFERS |
| UBO | - | ULTIMATE BENEFICIAL OWNER |
| WB | - | WORLD BANK |
| WG | - | WORK GROUP |

FOREWORD

Republic of Seychelles
Ministry of Finance Trade and Economic Planning

The Minister

Joint Forward by the Ministers for Finance, Trade and Economic Planning and Internal Affairs

We are pleased to present the first National Risk Assessment (NRA) on Money Laundering and Combating the Financing of Terrorism conducted by Seychelles. This is a reflection of the Republic's on-going commitment to maintain the highest international standards in protecting the economic and financial system against criminal activities. In conducting this assessment, the aim is to identify, understand and assess money laundering and terrorist financing risks faced by Seychelles.

Our country recognizes that Money Laundering and Terrorist Financing are global phenomenon. Such activities represent a threat to democracy and the financial stability of many countries. Seychelles being an off-shore jurisdiction with a high reputation must endeavour to maintain and subscribe to international standards.

The NRA report is also intended to inform Government of Seychelles' of the future challenges, allocate the appropriate resources and to ensure that the country is not adversely affected or seen as a soft target for Money Laundering and Terrorist Financing. This requires Government commitment and interagency co-operation to deal with the risks posed by identified threats and vulnerabilities.

The Government and National Assembly passed the Anti-Corruption Commission Act in 2016, which demonstrates the pro-active approach by Seychelles in having a public sector operating to the highest national and international standards of integrity and probity.

The Government takes account of any proposals made for updating or amending existing legislation in the areas of Money Laundering and Terrorist Financing that takes into account international norms emanating from the FATF Recommendations and other international fora.

The Government takes pride that Seychelles has exited the 1st Round of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) Mutual Evaluation in April 2016, currently the first country of 18 in the ESAAMLG region.

Finally, we would like to express our gratitude to the various institutions and personnel who committed time and effort to realize this project.

EXECUTIVE SUMMARY

Seychelles undertook the task of conducting its first National Risk Assessment (NRA)¹ in 2016, using a NRA methodology developed by the World Bank, as it prepares for the ESAAMLG Mutual Evaluation on the FATF Recommendations and Compliance 2017. Seychelles is committed to the implementation of the FATF Recommendations and is convinced that the NRA will give the country's policy makers a clear and comprehensive view of the national risks to ML/TF so as to inform the establishment of effective multi-agency mechanisms to coordinate local efforts to combat identified threats and vulnerabilities. Seychelles further views the NRA as a living document in that it provides the basis for continual updating and modifications to existing legislation and processes according to the changes in the existing ML/TF threats and vulnerabilities as well as new emerging risks.

Objectives of the NRA:

The objectives of the NRA include:

- Risk identification, and action plans including more efficient allocation of resources to mitigate those risks utilizing a Risk-Based Approach (RBA).
- To enable government, law enforcement agencies (LEAs), regulators and the private sector to target their resource allocations to areas or services that present the highest risks and as such, ensure that actions taken by the same are informed especially in regards to the risks of money laundering and terrorist financing.
- Fulfilling its (Seychelles) obligation to adhere to the FATF standards and recommendations one of which is recommendation 1 of 2012² 'AML/CFT Policies and coordination, Assessing risks & applying a risk-based approach'. This being imperative as a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)³ that is committed to implementing the Financial Action Task Force

¹ The NRA is a process of identifying and evaluating the money laundering and terrorist financing risks in a particular jurisdiction and analysing the main sources and drivers of the risks in order to develop effective and risk-based policies and actions, and allocate the available resources in the most efficient way to eliminate, control and mitigate the identified risks to Seychelles.

² <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/internationalstandardscombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html>

³ The purpose of the [Eastern and Southern Africa Anti-Money Laundering Group \(ESAAMLG\)](#) is to combat money laundering by implementing the FATF Recommendations. This effort includes coordinating with other international organisations concerned with combating money laundering, studying emerging regional typologies, developing institutional and human resource capacities to deal with these issues, and coordinating technical assistance where necessary. ESAAMLG enables regional factors to be taken into account in the implementation of anti-money laundering measures. ESAAMLG is an associate member of the FATF.

(FATF)⁴ recommendations to combat money laundering. Seychelles is also a member of the Egmont Group⁵.

- Providing policy makers with a clear and comprehensive view of the national risks to ML/TF so as to inform the establishment of effective multi-agency mechanisms to coordinate local efforts to combat identified threats and vulnerabilities.
- Providing the basis for continual updating and modifications to existing legislation and processes according to the changes in the existing threats and vulnerabilities as well as new emerging risks.

The NRA process involved six Working Groups (WG) led by an assigned Leader, under the overall coordination of a National Coordinator appointed by the FIU. The six groups were:

1. Threats & Vulnerabilities (Modules 1 & 2)
2. Offshore encompassing fiduciary services (Module 3) hereafter referred to as Non-Banking Financial(Offshore) And Fiduciary Services Providers (NBFFSP)
3. Banking (Module 4)
4. Designated Non-Financial Businesses and Professions (DNFBP)s –Module 5
5. Other Financials incl. Insurance (Module 6)
6. Terrorist Financing (Module 7)

The Seychelles NRA comprises of two parts, the first consolidating the first five group reports (No's 1-5 above i.e. Modules 1 to 6) with Recommendations & Actions to be taken and a separate report on Terrorism Financing (Module 7).

Prior to this NRA, Seychelles Authorities did not have a comprehensive and ongoing national AML/CFT risk assessment to guide its establishment of its Financial Institutions (FI) regulatory framework. As such, a risk-based approach to the AML/CFT framework was not in force.

It is to be noted that the formulation of national policy has not been based on risk assessment conducted with all relevant stakeholders including both governmental authorities and private sector participants. In addition, the last amendments made in respect of the AML Act did not involve a formal consultation process and private sector participants were omitted from the process.

A national AML/CFT Committee under the chairmanship of the Director of the FIU is responsible for the formulation of the AML/ CFT national strategy was established in 2006. The AML/ CFT Committee, however, is not established by law and as such is an informal

⁴The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. <http://www.fatf-gafi.org/about/> accessed on 13/2/2017

⁵ The Egmont Group is an international group comprising of over 150 FIUs which works to promote international co-operation in anti-money laundering and countering the financing of terrorism

structure and not formally designated by law or the Cabinet to undertake the national AML formulation responsibility. As such it sits more in an advisory capacity.

With regards to internal ML risks assessments within FIs and Designated Non-Financial Businesses and Professions (DNFBPs), this is not being carried out consistently across all sectors and not in all entities within a sector. However, FIs with international affiliation or existing within a group structure are most consistent at carrying out their internal risk assessments and use a formal methodology to do so.

And despite there being no data set reflecting the amount of money earned from criminal activity, the NRA found that the predicate offences⁶ which were generating the most proceeds of crime were Drug trafficking, Tax evasion, Smuggling of goods, Corruption and Fraud.

With regards to terrorist financing and terrorism, Seychelles has no incidences to report, nevertheless, the local authorities have circulated the UNSCR 1267 and 1373 lists of designated persons and entities to the FIs and reporting entities who are obliged to report to the FIU on any matches with the designations identified in the list.

In order to better identify and understand the risks at the sector level, work groups undertook assessments of organizations within their respective sectors (Banking, Securities, DNFBPs, FIs and others), to gauge the levels of ML/TF threats, vulnerabilities and risks within the sectors and the overall risk rating of these sectors' potential ML/TF risks. These ratings are discussed per sector within this report.

According to the Mutual Evaluation Report 2008⁷, on the country's AML/CFT regulatory framework and compliance with the FATF Recommendations, conducted by a team of evaluators composed of representatives from ESAAMLG and a World Bank Observer, Seychelles was rated as 'partially compliant' with Recommendation 1, 'largely compliant' for Recommendation 2 and 'partially compliant' on Special Recommendation (SR) I and II⁸. However, with the passing of the AML Amendment Acts 2008 and 2011 and the AML Regulations 2012, Seychelles has not only improved its AML/CFT regulatory framework, but has also ensured the new legislation has addressed the deficiencies which contributed to the FATF non-compliant ratings given in 2008. The AML Regulations of 2012 further outlines the Client Due Diligence (CDD) requirements based on a Risk Based Assessment (RBA)⁹. 'Seychelles has since been reviewed by the OECD as entirely aligning with its international standards of exchange of information'¹⁰. Further updated guidelines were issued by the FIU in

⁶ Predicate offences means under section 3 (9) of AML Act, 2006 any criminal conduct of which the penalties exceed 3 years imprisonment or SCR 50,000 in fines.

⁷ Mutual Evaluation Report: Anti Money Laundering and Combating the Financing of Terrorism, August 2008, Republic of Seychelles http://www.esaamlg.org/userfiles/Seychelles_Mutual_Evaluation_Report.pdf

⁸ ibid

⁹ <http://www.fsaseyelles.sc/index.php/download/download/5-aml-act/2-anti-money-laundering-regulations-2012>,

¹⁰ ibid

June 2015 taking into account the related laws of Seychelles and the Recommendations of the FATF as of 1 December 2014¹¹. These guidelines require reporting entities to adopt RBA in assessing their business operations whereby they are required to ‘consider any vulnerabilities arising from the nature of their products or services which could be exploited for this purpose. Controls should be designed, documented, and implemented to seek to mitigate such risks¹².’ In sum, reporting entities¹³ are obliged to conduct proper due diligence and verification of customers, adopt RBA to the monitoring of transactions, record-keeping, adherence to compliance protocols, Suspicious Transaction Reports (STRs), etc.

With regards to TF, Seychelles is guided by the Prevention of Terrorism Act which was passed in 2004, and which is also referenced in Section 2 of the AML Act 2006. The Prevention of Terrorism Act has been further strengthened by the ‘Prevention of Terrorism (implementation of the United Nations Security Council Resolutions on suppression of Terrorism) Regulations, 2015, S.I. 39 Regulation of 2015¹⁴.

Overview of the Results of Seychelles’ First NRA:

The first part of this NRA Report deals with the national ML threats and vulnerabilities (Modules 1 & 2). From the analysis of the threats assessment, it was found that the most prevalent predicate offences that generated illicit proceeds in Seychelles in the on-shore sector were found to be drug trafficking, tax related cases, fraud, and forgery.

The overall ML threat was rated **Medium High** taking into consideration the domestic ML threat, ML threat from abroad and all the inputs and analysis on threat which were all rated high. With regard to the assessment of the national vulnerability, this exercise focused on 23 areas¹⁵ with varying levels of capacity to deal with threats. The overall picture shows the existence of a strong legislative and regulatory framework, but a low enforcement activity. With the national vulnerability rated as **High** and a low capacity to deal with the threats, it is concluded that the overall sectoral vulnerability is rated as **High**.

Considering the weighting of the ML threats and vulnerabilities, it can be concluded that the overall ML risk for Seychelles is rated as **Medium High** while the potential threat level in respect of TF risk is rated as **Low** as there are no reported cases to date of TF in Seychelles

¹¹<http://www.seychellesfiu.sc/FIU%20Guidelines-Procedures%20for%20Reporting%20Entities%20Seychelles%20June%202015.pdf> accessed on 16/02/2017

¹² (Ibid).

¹³ List of reporting entities is available in Second Schedule (section 2) of the AML Act 2006 available at <http://greybook.seylli.org/w/se/CAP9A#!fragment/zoupio-Toc461169852/KGhnc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jNDYxMTY5ODUyKSxub3Rlc1F1ZXJ5OicnLHNjcm9sbEPEiMSKOiFuxLplYXLEh8SxylTEtsS4xYFicSHU8SQdELEtJfTEVWQU5DRSx0YW16dMSgKSk> Accessed on 16/02/2017

¹⁴<http://www.seylli.org/files/SI%2039%20of%202015.pdf> accessed on 16/02/2017

¹⁵ Criminalization of ML; Policy and Implementation; STR Data Analysis; Criminal Penalties; Domestic Cooperation; International Cooperation in Criminal Matters; Capacity of Financial Crime Investigators; Integrity of Financial Crime Investigators; Capacity of Financial Crime Prosecutors; Integrity of Financial Crime Prosecutors; Capacity of Presiding Officers; Integrity of Presiding Officers; Capacity of Asset Forfeiture Investigators; Integrity of Asset Forfeiture Investigators; Asset Forfeiture Laws; Asset Forfeiture Orders; International Cooperation in Asset Forfeiture; Auditing and Accounting Standards and Practices; Tax Disclosure; Corporate and Trust Transparency; Identification Infrastructure; Availability of Independent Information Sources; Financial Integrity.

other than the alleged case of the graphite shipment to Iran¹⁶. Nevertheless, Seychelles remains vigilant considering the proximity to piracy and trafficking of drugs, humans, ivory, arms etc, which may occur in the country's territorial waters.

Overall deficiencies noted within the Law Enforcement Agencies (LEAs) are that their investigative focuses are more on investigation of predicate offences and not ML. This also led to STRs referred to the LEAs being investigated for the predicate offences and not money laundering. The gap which has been noted will be addressed through training and awareness campaigns.

Seychelles' vulnerability to ML is high and opportunities exist for the financial and the non-financial sector to be used to launder the proceeds of crime. This is further reinforced by the overall sector vulnerability and the country's inability to combat ML as a criminal offence mostly due to capacity constraints. The existence of a strong civil confiscation regime which targets illicit proceeds without necessitating a criminal conviction, however, has a balancing effect on this with a large number of proceeds of crime being targeted through civil confiscation. Notwithstanding, Seychelles' vulnerability to ML is still marked as **High**.

Module 3 examined the Non-Banking Financial (Offshore) and Fiduciary Services Providers (NBFFSP) Sector where it found that within the Financial Services Sector the vulnerability and threat of the overall ML risk for Seychelles *Trust or Company Service Providers* (CSP)s is considered to be **Medium High** and that the nature of the CSP business is prone to misuse by individuals for illegitimate purposes. The NRA assessment has exposed some critical points of concern. The sector poses certain probable risks and the NRA assessment has revealed that the Seychelles CSP sector is prudently regulated and supervised.

The Securities Sector was assessed as a sub section of the NBFFSP. The ML threat to the Securities Sector was assessed as **Medium Low** by the Work Group (WG). This reflects the small size of the sector in Seychelles and the fact that there is strong and robust AML framework in place which appears to act as a deterrent to those wishing to launder criminal proceeds through the sector.

Assessment of Module 4 - the Banking Sector follows on from that of the NBFFSP Sector. With regards to the Banking Sector, the NRA revealed that a review of the existing laws and regulations in place in Seychelles, are mostly in line with the requirements of the Financial Action Task Force (FATF), specifically the Anti-Money Laundering Act (2006). An overall rating of **Medium** was given for ML risk, however, it was found that with regards to Compliance with International Standards variable a rating of **High** was given, while the Effectiveness of Supervision Procedures and Practices variable was rated **Medium Low** and the variable for Availability and Enforcement of Administrative Sanctions was rated as **Low**.

¹⁶ Hackl v Financial Intelligence Unit (2010) <http://www.seylli.org/content/contact-seylli>

The Assessment of Module 5 - the DNFBBs – revealed that the domestic perception of the risk of money laundering within the DNFBB sector in Seychelles is **Medium High** amongst some of the entities. This is because most of the business activities are being conducted in cash, while internationally, Seychelles is perceived as a high-risk jurisdiction in terms of its reputation as an offshore haven, and this is reflected in the higher levels of scrutiny on transactions involving Seychelles banks. In sum the overall threat of ML within the DNFBB sector has been assessed as **Medium High** and overall vulnerability to ML has been assessed as **Medium-High**.

The last Sector to be assessed for ML threats and vulnerabilities within the first part of this NRA is the Other Financial Institutions-- Module 6. The overall vulnerability of the Other Financial Institutions Sector has been considered to be **Medium High** in view of the highly cash intensive nature of activities in this sector such as buying and selling of FX and remittance activities. In general the activities do not have the resources to put in place the necessary internal controls and resources to mitigate against ML and TF risks implies a high exposure to such risks.

Part 2 of the NRA assessed the TF threats and vulnerabilities at the National and sectoral levels. On the issue of TF, the overall threat of TF has been assessed as **Low** while overall vulnerability to TF has been assessed as **Medium Low**. Of note, the domestic perception of the risk of terrorism and of TF in Seychelles is low. There are no known terrorist groups or cells currently active in Seychelles and no entities domestically designated under the Prevention of Terrorism Act. Additionally, there are no known cases of funds generated in Seychelles being used to finance terrorism domestically or abroad, and no known cases of Seychellois foreign terrorist fighters. Internationally, Seychelles is also perceived as a low-risk jurisdiction in the terrorist financing context. From a geographical perspective, the main TF threat, if any, would most probably emanate from Somalia, Madagascar and Yemen where there is evidence of terrorism and deficiencies in AML/CFT emanating from a lack of robust institutional control. Controls are in place in Seychelles to mitigate these risks. Vigilance is, nevertheless, necessary as a precaution given developments in the region including the resurgence of Piracy.

ML/TF risk remains evident in many sectors of the business environment. Reasons cited include: a general lack of knowledge of AML/CFT issues on the part of the supervisors and accountable institutions; ineffective enforcement of laws by the regulators and supervisors. More importantly, the report notes the lack of inter-agency collaboration among the relevant authorities or agencies. Vigorous training and sensitization of personnel need to be carried out by experts and the Financial Intelligence Unit (FIU).

RECOMMENDATIONS

Based on the NRA findings, the following recommendations were made amongst others:

- Building capacity of financial crimes investigators, prosecutors and judicial officers

- Prioritizing training on AML/CFT to officers within the NDEA and the Police, to Prosecutors from the AG's Office and Judges presiding over the financial crime cases.
- Recommending that the current tax enforcement system and relevant pieces of legislations are reviewed with a view of making it more effective and efficient.
- FSA and the FIU should increase its human resource capacity to ensure that it is commensurate to the size and scope of the sector, which would allow for more effective regulatory oversight of the activities of industry participants;
- FIU should publish periodic reports to provide stakeholders with an insight into its supervisory functions/activities and encourage for more transparency and impartiality, which may also positively influence the behaviour patterns of industry partakers;
- FSA and the FIU should review the current data and information available relating to the TCSP sector and with the collaboration of the industry gather necessary information to enhance risk assessment of the sector;
- The FIU should review the AML Act to include provisions which would allow for:
 - the imposition of administrative sanctions (such as monetary penalties, suspension and removal of critical staff) for minor offences; and
 - measure to require CRO to undergo the fit and proper assessment;
- Supervisory Authorities to intensify ML/TF training for its staff, to facilitate and monitor AML training of industry participants, which would allow for better understanding and appreciation money laundering risks associated with the business which may enable faster detection of ML risk/threats;
- AML supervision on the sector needs to be strengthened through the adoption of a risk-based approach;
- Guidelines on AML manuals for the securities sector to be devised by FIU and FSA;
- Increasing transparency and understanding on predicate offence to encourage filing of STRs;
- Formulation of training plan for CBS and FIU examiners to undertake onsite examinations of AML/CFT risk using a risk based approach.
- FIU and CBS to provide adequate financial and human resources to build capacity to allow for effective AML/CFT examinations.
- Enhancing information that banks provide to regulators on an offsite basis. This will allow for creation of risk profile of various banks and assist in the implementation of a risk-based framework.
- FIU to update in policies, procedures and manuals for supervision in line with international best practice. CBS to finalize its AML/CFT examination manual and ensure that it is in line with best practice and consistent with FIU's examination manual.
- Reviewing the AML Act to evaluate whether administrative actions can be incorporated within same and ensure the Act is in line with the Constitution
- Building capacity within regulators and law enforcement agencies to successfully build a case against AML non-compliance.
- All banks to adopt a risk based approach for AML risk management

- All banks required to set up a fully fledged compliance function with adequate resources with an independent qualified compliance officer
- Introducing requirements for banks to conduct periodical AML risk self-assessment.
- Increasing the number of on-site supervisions by the FIU and Financial Services Authority (FSA)
- Undertaking training and capacity building (to include training on international guidelines, UN Sanctions and domestic legislation) to build stakeholder expertise in the relevant aspects of Countering the Financing of Terrorism CFT.
- Capacity building to focus on detection and prosecutorial techniques.
- Establishing a specific department within the Attorney General's Office to oversee Mutual Legal Assistance (MLA).
- Aligning the Seychelles Companies Act with International Standards
- Modernizing the Associations Act especially with regards to Non-Profit Organisations (NPO)s especially with regards to the supervision of the NPOs – COMESA is to help Seychelles in this regard
- Formalising the National AML/CFT Committee with Highest level representation and greater involvement from the private sector. (At Ministerial level similar to Jersey's AML/CFT policy making body).

CONCLUSION

In October 2015, the OECD awarded Seychelles a 'largely compliant' status following the positive steps Seychelles has taken to comply with the OECD's regulations on the sharing of tax information¹⁷. This comes after Seychelles was declared "non-compliant" by OECD's¹⁸ Global Forum on Transparency and Exchange of Information for Tax Purposes) in October 2013 despite its past efforts to continually enhance its compliance with all OECD regulations and international best practice. Seychelles continues to take proactive measures to establish its reputation as a State committed to preventing the use of its jurisdiction for money laundering and terrorist financing purposes.

The effectiveness of this approach was recognized by the Eastern and Southern African Anti Money Laundering Group (ESAAMLG), who in April 2016 exempted Seychelles from submitting mandatory progress-evaluation reports on its first Mutual Evaluation Report. It is the only country of the 18 member countries in the regional group to have achieved this status.

¹⁷ <http://www.seychellesnewsagency.com/articles/4026/Seychelles+rated+%27largely+compliant%27+by+OECD+-+continued+vigilance+and+reforms+needed+to+uphold+status%2C+says+finance+minister>

¹⁸ It was in 2013, that the OECD rated Seychelles as non-compliant in two areas in the Global Forum on Transparency and Exchange of Information for Tax Purposes. This was during Phase Two of the Peer Review Group rating process. - See more at:

<http://www.seychellesnewsagency.com/articles/4026/Seychelles+rated+'largely+compliant'+by+OECD+-+continued+vigilance+and+reforms+needed+to+uphold+status,+says+finance+minister#sthash.xgUr73lf.dpuf>

Indeed Seychelles has taken on its responsibility in ensuring it is a relevant player in the global fight against ML /TF, a fight which requires continuous commitment and vigilance to combat. This it has and continues to do through its policy and legislative reviews in line with FATF and OECD best practices and guidelines. Besides, being a member of the Egmont Group, Seychelles is obliged to ensure that various international protocols are adhered to.

The FIU has set education, awareness creation and capacity building on ML/TF as one of its top priorities receiving the necessary commitment and support from the highest levels of government. However, such efforts requires all stakeholders to take an active part in the processes involve. Combating ML/TF is a national cause which safeguards the economy and prosperity of the Nation.

This document is the comprehensive version of the Seychelles NRA 2017. A comprehensive list of recommendations can be found at Annex 1 and Action Plans for the various sectors can be found at Annex 2 – 7.

INTRODUCTION TO THE SEYCHELLES NRA

The rapid advances in information technology and communication has revolutionized the way business is handled globally making all transactions easier and quicker. While this can be a boon to economic growth and business transactions, these advances can also be a bane, especially with regards to combating money laundering (ML). Because of this ease and speed at which “megabyte money”¹⁹ (Kurtzman 1997), can be moved from country to country, the global financial system stands at risk of criminals injecting their illicit financial gains into legitimate business or funding of terrorist activities through various schemes in the banks’ financial system, non- profit organizations/charities and the Designated Non-Financial Businesses and Professions (DNFBPs). According to the UNODC, ‘The estimated amount of money laundered globally in one year is 2 - 5% of global GDP, or \$800 billion - \$2 trillion in current US dollars’²⁰.

The Revised FATF 40 Recommendations (2012) prescribe an international standard and framework for combating ML /TF (as well as financing of proliferation of weapons of mass destruction). In embarking of this NRA Report 2017, Seychelles has, as much as possible (bearing in mind the particular legal, administrative and operational framework of the country), adopted a risk-based approach (RBA) following and adhering to the requirements and guidelines of Recommendation 1 of the Revised FATF Recommendations (2012), and paragraphs 3-6 of its Interpretative Note (INR 1)²¹.

THE NATIONAL RISK ASSESSMENT PROCESS

The ML/TF risk assessment process adopted by the Seychelles involved the interaction of 6 inter-agency working groups, each under the supervision of a team leader who reported back to the National Coordinator, a senior official from the Financial Intelligence Unit (FIU) who held other responsibilities apart from the NRA. After a year coordinating, the coordinator resigned and was replaced in March 2017. This can be considered a limitation which among others contributed to the delay in meeting the targeted deadline. With coordination in 2016 not being full time, and leaders of the various work groups (six in total), being in full time employment elsewhere, there was no incentive or motivation to ensure deadlines were met and regular meetings were held, hence optimum participation of the various stakeholders enlisted, and delivery of findings, were haphazard.

¹⁹‘Megabyte money is a computerized, global, electronic system for moving units of buying power denominated in dollars, yen, lire, pounds and so on, anywhere on earth’ from Kurtzman, Joel (1997) ‘Money’s Demise’, in Willis W. Harman, Maya Porter (ed.) *The New Business of Business: Sharing Responsibility for a Positive Global Future*. : Berrett-Koehler Publishers, pp. 56.

²⁰<https://www.unodc.org/unodc/en/money-laundering/globalization.html> accessed on 28/03/2017

²¹<http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> (pg 30-31)

Organisation of the NRA Process

The agencies first came together for a briefing by the World Bank on the NRA process and NRA methodology in January 2016. The agencies consisted of representatives from the Banking Sector, Designated Non-Financials Business's & Professions (DNFBPs), Non-Banking Financial (Offshore) and Fiduciary Services Providers (NBFFSP), Other Financials including Insurance and one work group dealt with Terrorist Financing. There was also a grouping that dealt specifically with overall national Threats and Vulnerabilities. A National Coordinator from the Financial Intelligence Unit (FIU) was appointed to oversee the risk assessment process of these groupings and to coordinate the various activities and collate the sector specific reports into the single NRA Report 2017 present here in.

The selection process for participation in the NRA was rolled out by the first NRA Coordinator who sent out email requests to all stakeholders asking them to nominate their participant. The various agencies selected and put forward their candidates. Where it was felt that a particular candidate had a set of skills or knowledge that could assist with the NRA, the NRA Coordinator wrote to those candidates directly and they volunteered to assist. In addition, private sector representatives were chosen mostly by their industry bodies after they were invited to participate. An inclusive approach was taken in deciding who were to participate as it was felt that the more participants involved from across a whole range of sectors the better the NRA especially as this would overcome some of the difficulties in collection of statistical data and enhance the richness of the information collected. Representatives from the civil society came from nominations by the Citizen's Engagement Platform (CEPS)²². WG members involved in the drafting of this report included representatives from: the FIU, relevant financial supervisory authorities (banking sector, securities sector, insurance sector, and other financial institutions), Supervisory bodies for Designated Non-Financial Businesses and Professionals (DNFBPs), the Seychelles Revenue Commission, Law Enforcement Agencies including Police and National Drug Enforcement Agency, the Attorney General's Office, The Judiciary (as necessary), Ministry of Finance, Trade and Economic Planning(as necessary), the Central Bank of Seychelles (units specializing in national accounts), National Bureau of Statistics, Other relevant competent authorities (refer to Annex 8 for list of participants).

What followed for Seychelles was the 'heavy lifting' related to collection of data, analysis, etc., in order to complete the overall assessment. The NRA Coordinator from the FIU had overall responsibility of delivering on the NRA project reporting to the Ministers for Finance, Home Affairs, and Foreign Affairs. A 2nd Workshop, facilitated by the World Bank, took place in September 2017; mainly to agree a final Seychelles-owned Report through discussion and by teasing out the various issues, and culminated in recommendations as well as a proposed Action Plan following the study.

²²<http://www.civilsociety.sc/ceps-organisation-profile/>

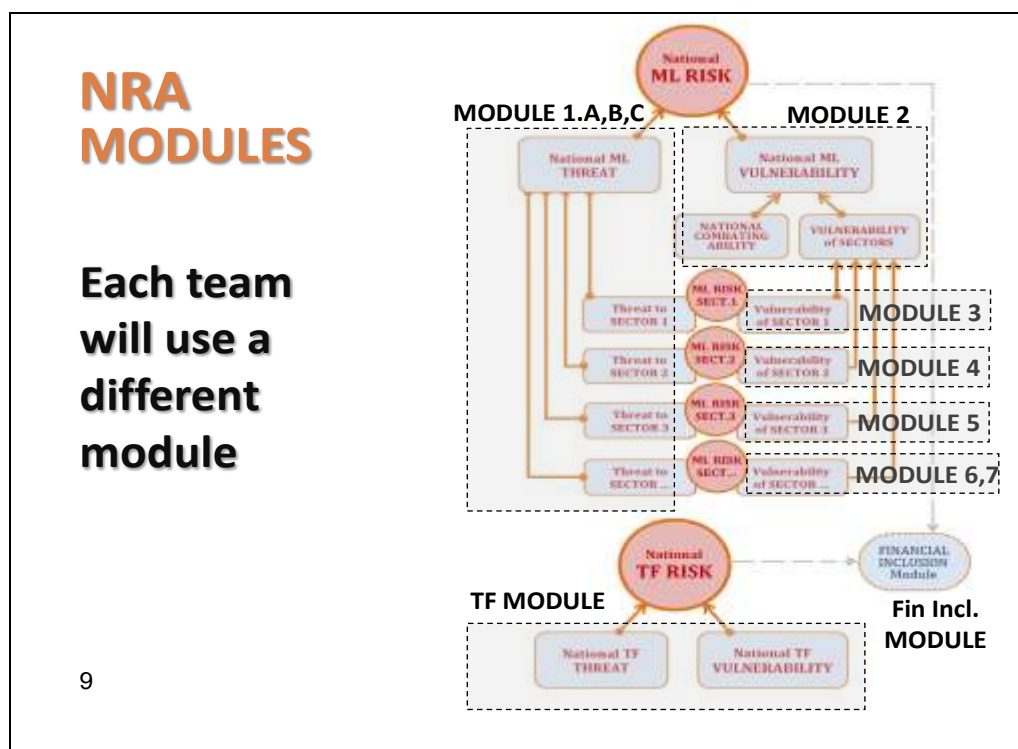
Data

As per the recommended guidelines (Annex 9), the NRA process consisted of three phases: Phase one which was preparation commencing in March 2015 and launch of the project (January 2016). Phase two being the collection of data, analysis and drafting of the report to be followed by phase three i.e. finalization of the report with recommendations which are to be followed by a plan of action emanating from the NRA exercise.

The study relied on interviews and some surveys and the work groups were guided by the World Bank NRA methodology depicted in Diagram 1 below. The groups were divided as follows:

WG one dealt with National ML threats and vulnerability under Module 1 and 2, respectively, of the World Bank methodology. Five other WGs focused on the sector ML Vulnerabilities Modules which included the Non-Banking Financial (Offshore) and Fiduciary Services Providers (NBFFSP) Sector as Module 3, Banking Sector as Module 4, the Designated Non-Financial Business and Professions (DNFBPs) as Module 5 and Other Financials (including Insurance) as Module 6. WG7 focused solely on Terrorist Financing (Module 7) as depicted in Diagram 1- NRA Modules.

Diagram 1: NRA Modules²³



²³ World Bank Group National Risk Assessment Tool and Process

Face to face interviews were conducted on a one-to one basis with senior and technical personnel from the various sectors for clarification and elaboration of issues affecting the various sectors, and questionnaires/surveys were used in other instances using variables included within the World Bank methodology. Secondary sources used included the 2008 Mutual Evaluation Report for Seychelles, the 2012 FATF Recommendations, and the Basel AML Index 2016 among others. Because of the wide and varied membership within the work groups, it was deemed that this would facilitate the retrieval of useful data for the study.

Limitations

Despite the wide array of members from various sectors within the WGs, access to data was limited. Reasons for this include the lack of systematic data collection in some fields, absence of certain data, unavailability of key persons for access to relevant information, lack of interest by some sectors to provide required information in a timely fashion. More over validation of some sets of data for accuracy and integrity of information provided was not possible. The NRA exercise revealed that there was a deficiency in many institutions' Management Information Systems (MIS) such that pertinent information was not being captured or stored.

Lack of understanding of the ML and TF issues and the importance of the NRA for the country was demonstrated by the fact that certain institutions were not forthcoming with information especially in the DNFBPs Sector. Furthermore for some institutions there was the fear of divulging 'too much' information as a result of a tradition of hoarding of information and lack of transparency in operations.

While the Work Groups (WG) originally had a good mix of sector representations, most group meetings were poorly attended due to regular ongoing work commitments, leaving much of the work to be done by the team leaders and their respective sector colleagues. As a result, the assessment process can be considered as flawed in that it may be missing information, consist of possible sector biases and this lack of participation and commitment may have contributed in delays in meeting the 12 month deadline of the NRA Process which began in January 2016. In hindsight it is recommended that in future such an assessment be conducted with NRA dedicated personnel who are not torn between the pressing demands of their normal duties for which they are earning their salaries and 'volunteer' work as this present Assessment appeared to be. Moreover, persons assigned to the NRA should only be ones who are committed and prepared to put in the time to deliver according to accepted assignment(s).

THE NATIONAL RISK ASSESSMENT METHODOLOGY

The NRA is a national project, using a NRA methodology developed by the World Bank, in order to prepare Seychelles for the ESAAMLG Mutual Evaluation on the FATF Recommendations and Compliance 2017. The NRA is a process of identifying and evaluating the ML and TF risks in a particular jurisdiction and analysing the main sources and drivers of

the risks in order to develop effective and risk-based policies and actions, and allocate the available resources in the most efficient way to eliminate, control and mitigate the identified risks to Seychelles.

An increasing importance is being placed on the assessment of ML/TF risks by the FATF since national strategies, policy decisions and actions must correspond to the risks faced by each jurisdiction and this will lead to more effective implementation of the FATF Recommendations.

The 1st NRA Workshop, facilitated by the World Bank was held during January 2016 set out primarily to familiarize the various groups (public sector, industry) to understand the process, features and function of the methodology developed by the World Bank.

The NRA report was a product of engagements with relevant stakeholders from the public and private sectors, workshops, data collection and analysis all guided by the NRA methodology developed by the World Bank comprising the three phases of Preparation, Assessment and Conclusion.

SECTION 1. MONEY LAUNDERING RISK

1.1 MONEY LAUNDERING RISK AT NATIONAL LEVEL

1.1.1 Country Context for Money Laundering

The Seychelles archipelago comprising of 115 islands scattered over some 1.3 km² of the western Indian Ocean, gained its independence from the Britain in 1976. With a total population of around 91000²⁴ living principally on the main island of Mahe and the next 2 largest islands of Praslin and La Digue, the small island State of Seychelles is one of the smallest countries in land and population size in Africa. Heavily dependent on Tourism, Fisheries and the Financial Services Sector as the main stay of its economy, Seychelles' economy has performed remarkably well so much so that in June 2015, the World Bank classified Seychelles as a 'high income economy as GNI per head (Atlas method) climbed to \$14,100.'²⁵ Furthermore, Seychelles has been able to maintain steady foreign direct investment especially in the tourism (Hotel) and fisheries sectors.

According to the Mutual Evaluation Report 2008²⁶, on the country's AML/CFT regulatory framework and compliance with the FATF Recommendations, conducted by a team of evaluators composed of representatives from the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG) and a World Bank Observer, Seychelles was rated as Non-compliant with Recommendations 12, 16, 24 and 25 and partially compliant for Recommendation 20²⁷. However, with the passing of the AML (Amendment) Acts 2008 and 2011 and the AML Regulations 2012, Seychelles has not only improved its AML/CFT regulatory framework, but has also ensured the new legislation addressed the deficiencies which contributed to the FATF non-compliant ratings given in 2008, leading to Seychelles exiting the ESAAMLG reporting process in 2016. The AML Regulations 2012 further outlines the Customer Due Diligence (CDD) requirements based on RBA²⁸. 'Seychelles has since been reviewed by the OECD as entirely aligning with its international standards of exchange of information'²⁹. Further updated guidelines were issued by the FIU in June 2015 taking into account the related laws of Seychelles and the Recommendations of the FATF as of 1 December 2014³⁰. These guidelines require reporting entities to adopt a risk based approach (RBA) in assessing of their business operations whereby they are required to 'consider any vulnerabilities arising from the nature of their products or services which could be exploited for this purpose. Controls should be designed, documented and implemented to seek to mitigate

²⁴ Seychelles in Figures, 2015 Edition National Bureau of Statistics, Seychelles

<https://www.nbs.gov.sc/news/15-seychelles-in-figures-2015>

²⁵ Economic Overview. <http://www.worldbank.org/en/country/seychelles/overview>

²⁶ http://www.esaamlg.org/userfiles/Seychelles_Mutual_Evaluation_Report.pdf

²⁷ <http://www.anti-moneylaundering.org/africa/Seychelles.aspx> accessed on 16/02/2017

²⁸ **Regulations 8(2)-(3), 13 and 15** of the <http://www.fsaseychelles.sc/index.php/download/download/5-aml-act/2-anti-money-laundering-regulations-2012>

²⁹ Ibid.

³⁰ <http://www.seychellesfiu.sc/FIU%20Guidelines-Procedures%20for%20Reporting%20Entities%20Seychelles%20June%202015.pdf> accessed on 16/02/2017

such risks³¹.’ In sum, reporting entities³² are obliged to conduct proper due diligence and verification of customers, adopt a RBA to monitoring of transactions, record-keeping, adherence to compliance protocols, STRs and other preventive measures.

1.1.2 AML Policy Coordination and Development

There is a National Anti-Money Laundering/ Countering the Financing of Terrorism (AML/CFT) Committee which was established in 2006. The committee which is chaired by the FIU Director comprises of representatives from the Central Bank of Seychelles, Seychelles Police, the Attorney General’s office, Customs, Immigration, Financial Services Authority (FSA), Ministry of Foreign Affairs, National Drugs Enforcement Agency (NDEA), Seychelles Licensing Authority (SLA), Seychelles Investment Bureau (SIB), Ministry of Home Affairs, the Office of the Registrar General and the FIU. The committee meets every quarter to discuss issues related to AML and the Financing of Terrorism (TF). A National Countering Financing of Terrorism Committee established in 2015 under the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2015, comprising of the Minister of Home Affairs as the Chairperson, the Minister for Finance, the Minister for Foreign Affairs, the Attorney General, Commissioner of Police, Director FIU and a secretary as nominated by the Chair³³. The National AML Committee is not established by law but it meets quarterly. Seychelles undertook the task of conducting its first National Risk Assessment (NRA)³⁴ in 2016, using a NRA methodology developed by the World Bank, as it prepares for the ESAAMLG Mutual Evaluation on the FATF Recommendations and Compliance 2017. Members of the National AML/ CFT Committee were independently involved in the Working Groups undertaking the NRA but the Committee itself was not involved as a body. Seychelles is committed to the implementation of the FATF Recommendations and is convinced that the NRA will give the country’s policy makers a clear and comprehensive view of the national risks to ML/TF so as to inform the establishment of effective multi-agency mechanisms to coordinate local efforts to combat identified threats and vulnerabilities. Seychelles further views the NRA as a living document in that it provides the basis for continual updating and modifications to existing legislation and processes according to the changes in the existing threats and vulnerabilities as well as new emerging risks.

³¹ (Ibid).

³² List of reporting entities is available in Second Schedule (section 2) of the AML Act 2006 available at <http://greybook.seyii.org/w/se/CAP9A#!fragment/zoupio-Toc461169852/KGhnc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jNDYxMTY5ODUyKSxub3Rlc1F1ZXJ5OicnLHNjcm9sbEPEiMSKOiFuxLplYXLEh8SyxLTEtsS4xYfFicSHU8SQdELEtIJFTEVWQU5DRSx0YW16dMSgKSk>
Accessed on 16/02/2017

³³ <https://www.seyii.org/sc/legislation/si/2015/39> accessed on 16/02/2017

³⁴ The NRA is a process of identifying and evaluating the money laundering and terrorist financing risks in a particular jurisdiction and analysing the main sources and drivers of the risks in order to develop effective and risk-based policies and actions, and allocate the available resources in the most efficient way to eliminate, control and mitigate the identified risks to Seychelles.

This module is rated as **Medium**.

1.1.3 Overall ML Risk Level as a function of ML Threat and ML Vulnerability

1. Overall threat of money laundering is rated as **Medium High(MH)**
2. Overall vulnerability to money laundering **Medium High(MH)**

From the risk map below therefore, the overall money laundering risk in the jurisdiction is **Medium High**. Although there is the perception that the Seychelles' risk to ML should be high because Seychelles is predominantly an offshore jurisdiction, the working group concluded that transactional element of the offshore does not occur through Seychelles and World Bank NRA methodology used in the assessment does not provide for an input on national risk of the facilitation of creation of entities and arrangements to launder money. This is the first NRA conducted by Seychelles prior to the upcoming period of review.

Figure 1: Risk map for identifying the risk level as a function of threat and vulnerability.



1.1.4 National Threat Assessment

The assessment on the prevalent predicate offences in Seychelles was carried out covering the period 1st January 2013 to 31st December 2015. The report recognizes that collecting information including statistical information was a major challenge in the initial changes of the NRA which meant that a review of a wider period of time spanning was not possible as not all information was available from all sources for this period of time. It has been since noted in the recommendations that statistics need to be kept at a more granular level and going forward, for updating of the NRA it is essential that wider information sources in particular statistical information is obtained.

The NRA made a distinction between the cases stemming from the on-shore sectors and those from the financial services sector. The most prevalent predicate offences that generated illicit proceeds in Seychelles in the on-shore sector were found to be drug trafficking, tax related

cases, fraud, and forgery. The level of threat posed by proceeds generated from crime was rated as **Medium High (MH)**.

World Bank's methodology for assessing national risk does not consider country risk from the perspective of the international community most notably the international financial community. For example, international banks as the consequence of formulating this risk may have a greater impact on the country's financial industry and its economy as a whole. In the case for example of loss of correspondent banking, the view that Seychelles is high risk because of the existence of a financial services sector, has started impacting the other pillars of the economy. That risk cannot be quantified or documented using the current methodology.

In addition, it should be noted that Seychelles is a cash intensive economy. Using the data from the Central Bank's audited financial statements for the year 2015 (page 40); currency in circulation in 2015 was SCR 1,096,913,000³⁵ (USD 87,753,040³⁶). This information has been used to estimate the total proceeds of crime from undetected sources combined for all the predicate offences identified. The methodology for calculating proceeds of crime is supported by the Suspicious Transaction Reports (STR) data obtained from the FIU on cash transactions. The Central Bank indicated that the level of formalization of the economy is 79 per cent³⁷. The estimated proceeds of crime as a co-efficient of the cash in circulation in 2015³⁸ and using the level of formalization of the economy as an indicator of criminal activity in Seychelles, is therefore calculated to be SCR 230,351,730 equivalent to USD 18,428,138³⁹.

An analysis of the major proceeds-generating offences in Seychelles is tabulated in Table 1 below. It is, however, worth noting that some information is missing from the table, in the form of number of cases prosecuted and number of convictions. This is attributable to the fact that the Law Enforcement Agencies (LEAs) crime statistics capturing system (which is a manual system of capturing information), is not designed to capture these elements as required by the risk assessment tool being used. It is recommended that to ensure consistency and reliability and accurate data capturing, LEAs start collecting statistics in a form and manner that will be useful for the updating of the NRA.

Statistical information was not obtained on all predicated offences defined under FATF recommendations. Based on assumption made on level of criminality by predicated offences, the most prevalent predicated offences in Seychelles were given a rating from 1 (being more prevalent) to 6 (being less prevalent). This was used to estimate the proceeds of crime generated by these offences in Seychelles.

³⁵<http://www.cbs.sc/Downloads/publications/Financial%20Statements%202015.pdf>

³⁶Using conversion rate USD 1 = SCR 12.5

³⁷Central Bank response to NRA letter for module 1

³⁸<http://www.cbs.sc/Downloads/publications/Financial%20Statements%202015.pdf>

³⁹Using conversion rate USD 1 = SCR 12.5

Table 1: Methodology used to calculate the proceeds of crime by type of predicated offences.

| Predicated offence | Rank (Risk descending) | Proportion of Informal economy based on Weight |
|----------------------|------------------------|--|
| Drug Trafficking | 1 | 5,528,441.52 |
| Fraud/Forgery | 6 | 552,844.15 |
| Corruption / Bribery | 4 | 2,764,220.76 |
| Tax Evasion | 2 | 4,607,034.60 |
| Robbery | 8 | 184,281.38 |
| Theft | 7 | 184,281.38 |
| Company Fraud | 5 | 921,406.92 |
| Smuggling | 3 | 3,685,627.68 |

Table 2 showing statistics on the proceeds of crime generated from predicate offences over the years 2014 to 2015.

| A | B | C | D | E | F |
|--|----------------------|-------------------|-------------------------------------|--------------------------------------|--|
| Offence | No of Cases Reported | No of Convictions | Value Involved (USD ³⁸) | Amount of Proceeds Confiscated (USD) | Estimated Proceeds of Crime (USD ³⁹) |
| Drug Trafficking | 57 | 42 | 1,500,000 | 420,000 | 5,528,441.52 |
| Fraud/Forgery | 19 | 3 | 520,000 | 0 | 552,844.15 |
| Corruption / Bribery | 3 | 0 | 24,000 | 0 | 2,764,220.76 |
| Tax Evasion | 4 | 0 | 3,200,000 | 0 | 4,607,034.60 |
| Robbery | 23 | 15 | 32,000 | 0 | 184,281.38 |
| Theft | 27 | 12 | 272,000 | 32,500 | 921,406.92 |
| Company Fraud | 5 | 0 | 2,400,000 | 0 | 3,685,627.68 |
| Smuggling (information was not provided) | | | | | |
| TOTAL | 138 | 72 | 7,948,000 | 452,500 | 18,428,138 |

The column of seizures in Table 2 below refers to all properties (in monetary value) recovered by LEAs from the criminals or their associates. Confiscations indicated in column E include: assets confiscated by the Court both in absolute terms under the Proceeds of Crime legislation

and also in pecuniary terms following a criminal conviction. Please note that the confiscations carried out in respect of non-domestic cases are not included as these may skew the statistics in relation to proceeds derived from domestic offences.

Statistics obtained from the LEAs reveal that statistics were not being maintained methodologically for all the sixteen predicate offences as per the FATF Recommendations. Out of these predicate offences, a total of 138 cases were reported and investigated with 72 cases obtaining successful convictions. The reasons for the low convictions were due to the lack of evidence to attain a criminal evidential threshold. The NRA has acknowledged that this area of low convictions requires remedial action and a plan of action needs to be developed at national level to address this issue. It is to be noted that from the statistics above, focus of LEAs is still very much on investigation of predicate offences and not ML offence.

Based on statistics obtained from the LEAs⁴⁰, the total value prejudiced through the various predicate offences is USD 7,948,000 and value seized and recovered by LEAs represented an amount of USD 452,500.

The predicate offence representing the most proceeds of crime is company fraud with a total value of USD 2.4 million. This figure was obtained from the Police and the elements of company fraud were not broken down further. This data may suggest that the company requirements to prevent entities from being used to launder money need to be strengthened.

Drug trafficking follows at USD 1.5 million of the value of the proceeds provided over the review period. This figure is, however, a conservative figure as other information obtained during the course of the NRA indicated that a large number of investments being financed from proceeds of drug trafficking are invested overseas in neighbouring countries and locally using domestic companies and legitimate businesses⁴¹. This is also supported by proceeds of crime civil confiscation cases where respondents claim in their defence that they are businessmen but cannot explain the source of their wealth. ML offences with drug trafficking as the predicate offence is very low with only 3 being recorded as investigated by the LEAs and all 3 having successful convictions⁴². There are however a number of civil confiscations cases taken to Court under Proceeds of Crime (Civil Confiscation) Act 2008 where it was stated by the FIU that the criminal evidential threshold could not be met to charge the offenders with drug trafficking. However, the offenders had amassed unexplained wealth for which they could not explain the sources and where they tried to do so; the explanation could not be corroborated⁴³. Drug trafficking was rated as High risk but because of the mitigating factors that are in place in respect of drug trafficking such as a specific Authority investigating drug trafficking cases, the rating is given as **Medium High**.

⁴⁰Statistics provided by the Police, FIU, NDEA and SRC

⁴¹Based on interview with Deputy Chief Officer of NDEA and Deputy Director FIU

⁴²Interview with Deputy Chief Officer NDEA

⁴³Interview with Deputy Director FIU

Corruption and bribery as a predicate offence for money laundering was also rated as Medium High. This is however not supported by statistical evidence put forward by the LEAs. The assessors are aware that a new agency, the Anti-Corruption Commission, Seychelles (ACCS), formed under the Anti-Corruption Act, 2016 has been set up to investigate corruption and corruption related offences. As part of the NRA process alternative information sources were used as indicative of whether there should be causes of concerns for corruption as a predicate offence for money laundering. A rating of Medium High is given for corruption offence as a predicate offence for money laundering.

Smuggling is seen to be a predicate offence with **Medium** risk of money laundering. Again the statistics provided by the LEAs on cases reported, investigated and prosecuted is insufficient to evidence this risk rating. The rating **Medium** is, therefore, allocated due to undocumented reports made and the capacity of the competent authorities to apply mitigating factors to prevent and detect this offence from occurring. It is recommended that checks and controls are strengthened at the different points of entry to detect, investigate and take enforcement actions against individuals involved in smuggling of goods.

ML cases were recorded in respect of drug trafficking as a predicate offence. This is indicative that there may be legislative and capacity gaps in relation to the investigation of the offence of ML. The AML Act, 2006 became effective in 2006 and was amended in 2008 and 2011. Whilst STRs that were referred to LEAs during that period were investigated for ML, in many instances there was insufficient evidence to warrant the prosecution of ML as the offence.

1.1.4.1 Analysis of Seychelles' Major Predicate Offences

An analysis of Seychelles' major predicate offences is presented below:

1.1.4.1.1 Theft

In Seychelles, the offence of theft is defined under Section 253 of the Penal Code as “the unlawful taking or appropriation with intent to steal a thing capable of being stolen that is, either knowing that another person is entitled to own, possess or control the property or realizing that there is a real risk or possibility that another person may be so entitled; and intending to deprive the other person permanently of his or her ownership, possession or control”⁴⁴. From statistics provided by LEAs, petty theft is prevalent in Seychelles but this offence does not generate substantial proceeds of crime in comparison to other predicate offences. The risk of theft as a predicate offence for cases is rated **Low (L)**.

1.1.4.1.2 Fraud/Counterfeit/Forgery

For the purpose of this report, the above three offences under the Penal Code, have been brought under one category because they have common elements which involve

⁴⁴<http://greybook.seylli.org/w/se/CAP158#!fragment/zoupio-Toc384202915/KGhnc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jMzg0MjAyOTE1KSxub3Rlc1F1ZXJ5OicnLHNjcm9sbEPEiMSK0iFuxLplYXLEh8SxxLLEtsS4xyFicSHU8SQdELEtIJFTEVWQU5DRSx0YWI6dMSgKSk=>

misrepresentation, inducement or deception which cause actual or potential prejudice. The prejudice can either be financial or of administrative reputation. Based on statistics provided in relation to financial services fraud, fraud risk is rated **Low (L)**.

From reported cases on fraud, it was indicated by the Police that the types of fraud perpetrated in Seychelles that generate substantial proceeds of crime are perpetrated by foreigners who operate in groups. Recently there has been an increase in such groups coming into Seychelles focusing on ATM or skimming related fraud, fraud over the internet and cyber-crime. According to the Police, these represent 90% of cases reported over the period under review. It is seen that 95 % of those cases, with fraud cases over the internet, the fraud is initiated in countries such as South Africa, Ghana, Guinea and Nigeria and the funds are transferred to those countries through Money Services Bureaus. With the other types of fraud, the proceeds of fraud are not laundered in Seychelles and two reported cases ⁴⁵ indicate that the perpetrators exchange the local currencies for foreign currencies and travel with cash in foreign currency outside of Seychelles.

1.1.4.1.3 Drug Trafficking

Offenders for the offence of drug trafficking are charged under the Misuse of Drugs Act, 1990 as amended⁴⁶. Drug trafficking as a predicate offence represented the most cases of ML investigations and the only 3 ML cases that were prosecuted. All 3 ML cases were successfully prosecuted⁴⁷.

There are, however, a number of civil confiscations cases taken to Court under Proceeds of Crime (Civil Confiscation) Act 2008 where it was stated by the FIU that the criminal evidential threshold could not be met to charge the offenders with drug trafficking. However, the offenders had amassed unexplained wealth for which they could not explain the sources and where they tried to do so; the explanation could not be corroborated⁴⁸.

Drug Trafficking is rated as **Medium High** for reasons explained above.

Trends in drug trafficking cases are that:

- Hard drugs coming mainly from Kenya and Dubai where it is smuggled in Seychelles through mechanisms for legitimate trade and couriers. Based on qualitative information obtained⁴⁹ the importation of heroin is monopolized by different clusters of groups of people, mostly constituting families. According to intelligence on the importation of hard drugs in Seychelles, the recent trend shows those groups were coming together to

⁴⁵Interview with Deputy Director of FIU and Police statistics

⁴⁶<https://www.seylli.org/sc/legislation/consolidated-act/133>

⁴⁷Interview with Deputy Chief Officer of NDEA

⁴⁸Interview with Deputy Director FIU

⁴⁹Interview with Deputy Chief Officer of NDEA

organize and bulk import the drugs into Seychelles as a result of the work carried out by the NDEA to date⁵⁰.

- Qualitative information also suggest that because of the maritime effort to patrol the Indian Ocean, Seychelles' waters are more and more being used as a transit route for the drug trade from North to South. Such is supported by large quantities of drugs seized on ships emanating from Iran. These hard drugs are not for the Seychelles' market consumption⁵¹. This is supported by recent seizure of drugs in Seychelles waters⁵². Although the seizure fell outside the scope of the review period, it is included in the report to corroborate other information received.
- Based on financial investigations related to drug trafficking it is identified that sectors being used to facilitate conversion of currency which is to be carried by cash couriers are Bureau de Changes (BDCs). Often though payments for the purchase of drugs do not originate from Seychelles as the proceeds of drugs trafficking are kept overseas in bank accounts or invested in assets outside Seychelles⁵³.
- Nonetheless, where the proceeds are laundered in Seychelles, the information from financial investigations points towards the use of the banks, the BDCs, the real estate sector and the motor vehicle sector as being used for ML.

To date, 3 ML convictions have been obtained for ML related to drug trafficking. The different LEAs work in close collaboration with each other and share intelligence from their respective investigations. In all instances, parallel investigations are run for the offence of drug trafficking and ML.

1.1.4.1.4 Robbery

Robbery is defined under the Penal Code as “Theft of property by intentionally and unlawfully using violence or threats of violence to induce submission to the taking of it from the person of another”. Two types of robbery are recognized under the Penal Code, those being robbery and armed robbery and they are both classified as violent crimes. There are two main categories of robbery namely robbery with assault where there is use of force and plain robbery where little or no force is used. Robbery as a predicate offence for ML in the Seychelles is rated as **Low (L)**.

⁵⁰Interview with Deputy Chief Officer of NDEA

⁵¹Interview with Deputy Chief Officer of NDEA

⁵²<http://www.seychellesnewsagency.com/articles/4998/Drug+bust+in+Seychelles%27+waters+said+to+be+largest+ever%3B+Iranian+crew+arrested>

⁵³Interview with Deputy Chief Officer NDEA

1.1.4.1.5 Corruption/Bribery

Seychelles has introduced a number of new offences under the Anti-Corruption Act, 2016⁵⁴. The Penal Code of Seychelles does not make specific reference to an offence defined as corruption. Rather a number of Acts under the Penal Code under Chapter X⁵⁵ constitute of mostly what can be defined as a corrupt conduct. A corrupt conduct is unlawful and intentional offering to or agreeing with a person to give any consideration in return for action or inaction by him. It also involves unlawfully and intentionally agreeing to accept a consideration in return for action or inaction by him. Both the person taking the bribe and the one offering are criminally liable. These offences (collectively referred to as corruption for the purpose of the NRA), are given the rating as **Medium High (MH)**.

Corruption conducts include amongst other;

- i. Official corruption
- ii. Extortion by public officers
- iii. Receipt of property for favours
- iv. Abuse of authority of office

Trends

There is insufficient statistical information on which the NRA can leverage to determine the trends of the offence in Seychelles. Both people who hold positions of authority in Government, the general public sector as well as private sector players are viewed perpetrators of the offence. The lack of transparency in relation to the award of contracts, tenders, land from the land bank, the operations of companies fully owned by the government, no audit having been carried out on capital projects, and the lack of capacity on the oversight and governance mechanisms put in place by government are contributors to the high rating given to corruption as a predicate offence to ML, notwithstanding the lack of statistical data on the issue. In addition in terms of the international corruption indices published such as Transparency International Corruption Index, Seychelles scored 55 on the corruption Index⁵⁶.

There is very little indication as to the sectors being used to launder the proceeds of corruption. Anecdotal evidence suggests that the real estate sector particularly in relation to the land in the land bank; is a sector in itself where corruption happens.

Over the review period from the available statistical information:

- There were three cases of corruption reported to LEAs in the years under review⁵⁷.
- At the time of the NRA, the Police was mandated to investigate offences of corruption. However as a note this position has now changed with the new Anti-Corruption Act,

⁵⁴<https://www.seylii.org/sc/Act%20of%202016%20Anti-Corruption%20Act%2C%202016.pdf>

⁵⁵<http://greybook.seylii.org/w/se/CAP158#!fragment/zoupio->

<http://greybook.seylii.org/w/se/CAP158#!fragment/zoupio-Toc384202717/KGhnc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jMzg0MiAyNzE3KSxub3Rlc1F1ZXJ5OicnLHNicm9sbEPEiMSKOiFuxLpLYXLEh8SyxLTetsS4xYfficSHU8SQdLEtJFTEVWQU5DRSx0YWl6dMSgKSk=>

⁵⁶<https://www.transparency.org/cpi2015>

⁵⁷Information received from the Police

2016. No confiscations were recorded during the period under the review and the Anti-Corruption Commission is still setting up its capacity to investigate and confiscate proceeds of corruption.

- The threat to ML is viewed as **Medium High** even though very few cases have been brought forward.

1.1.4.1.6 Tax Evasion

Tax evasion is the result of deliberate suppression of facts or the deliberate distortion of facts for the purpose of evading the payment of taxes due to the State. Different sections under the Revenue Administration Act and the Custom's Act⁵⁸ operates in relation to these offences. It is perceived in Seychelles, that tax evasion as a predicate offence is very prevalent. The statistics provided by SRC in respect of reporting, investigating and prosecuting of tax evasion cases is insufficient to determine whether this is a real issue for Seychelles. From interviews carried out, it appears that there may be a definition challenge in respect of what is recorded as a tax evasion case as per Seychelles Revenue Administration Act. The perception is however supported by the statistics provided on the STRs⁵⁹ which shows a prevalence of personal accounts being used for business purposes potentially as a mechanism to evade tax and large out of the norm cash transactions being paid by owners of legitimate businesses for purchase of other assets in Seychelles including land. This area needs further work to determine the true extent of the problem and based on the above, is rated with a risk of **Medium High (MH)**.

Trends

The trends are as follows:

- Non-registration or non-remittance of tax due to the State.
- Understatements of income, and/or overstatement of deductible expenditure.
- May involve an element of forgery where records are falsified.
- Transfer pricing
- Other custom related offences

Anecdotal evidence suggests that proceeds generated from tax evasion are laundered through bank accounts, real estate and motor vehicle sector⁶⁰.

1.1.4.1.7 Origin of Laundered Proceeds Breakdown

An analysis at the origin of the laundered proceeds revealed that proceeds being laundered in Seychelles can be estimated to be SRC 230,351, 730 million. This is indicative only and used in the absence of a reliable methodology to estimate total proceeds of crime. Estimation per predicate offence has not been calculated. Because Seychelles economy is still largely cash based, it was felt that using information on cash in the economy is a good indicator of the level

⁵⁸<http://www.seylli.org/sc/legislation/act/2009/27>

⁵⁹Interview carried out with Deputy Director FIU

⁶⁰Interview with Deputy Director FIU

of proceeds of crime in Seychelles. This calculation has, therefore, been made using the Central Bank's 2015 financial statement information on currency in circulation and the information provided of the level of formalization of the economy which is 0.79.

As for crimes being committed outside Seychelles', the proceeds are channelled for laundering in or through Seychelles, the estimate amount is USD 15 million channelled through bank accounts and sales of real estates.

No amount could be apportioned to crimes whose country of origin is not known.

1.1.4.1.8 Conclusion

The overall ML threat was rated **Medium High** taking into consideration the domestic ML threat, ML threat from abroad and all the inputs and analysis on threat which were all rated **Medium High**.

Overall deficiencies noted within the LEAs are that their investigative focus is more on investigation of predicate offences and not ML. This also led to STRs referred to the LEAs being investigated for the predicate offences and not money laundering. Due to the lack of a statistical records and systematic data collection, other predicate offences such as human trafficking and piracy have not been included in this analysis. The gap which has been noted will be addressed through training and awareness campaigns as well as introduction of a more systematic data collection process by LEAs. In addition, it is also recommended that the national strategy on AML/CFT is reviewed with a view of determining whether it addresses the different threats being faced by Seychelles.

1.1.5 ML Vulnerability at National Level- Part 1

1.1.5.1 The Objective of This Module was to Assess Seychelles' vulnerability

Seychelles' vulnerability to ML is **Medium** and opportunities exist for the financial and the non-financial sector to be used to launder proceeds of crime. This is further reinforced by the overall sector vulnerability and the country's inability to combat ML as a criminal offence mostly due to capacity constraints. The existence of a strong civil confiscation regime which targets illicit proceeds without necessitating a criminal conviction, however, has a balancing effect on this with a large number of proceeds of crime being targeted through civil confiscation. Notwithstanding, Seychelles' vulnerability to ML is still marked as **Medium**.

The data used in this module to determine the ML vulnerability was gathered from the institutions represented in the National AML/ CFT Committee and other stakeholders. The information collected covered the period from 2012 to 2015 by means of interviews and questionnaires. In some instances the information collected in particular statistical information was deemed not reliable. There were also instances where information was not available at all as this was not being maintained. It is recommended that provisions are made for maintaining information, in particular statistical information for future updating of the NRA.

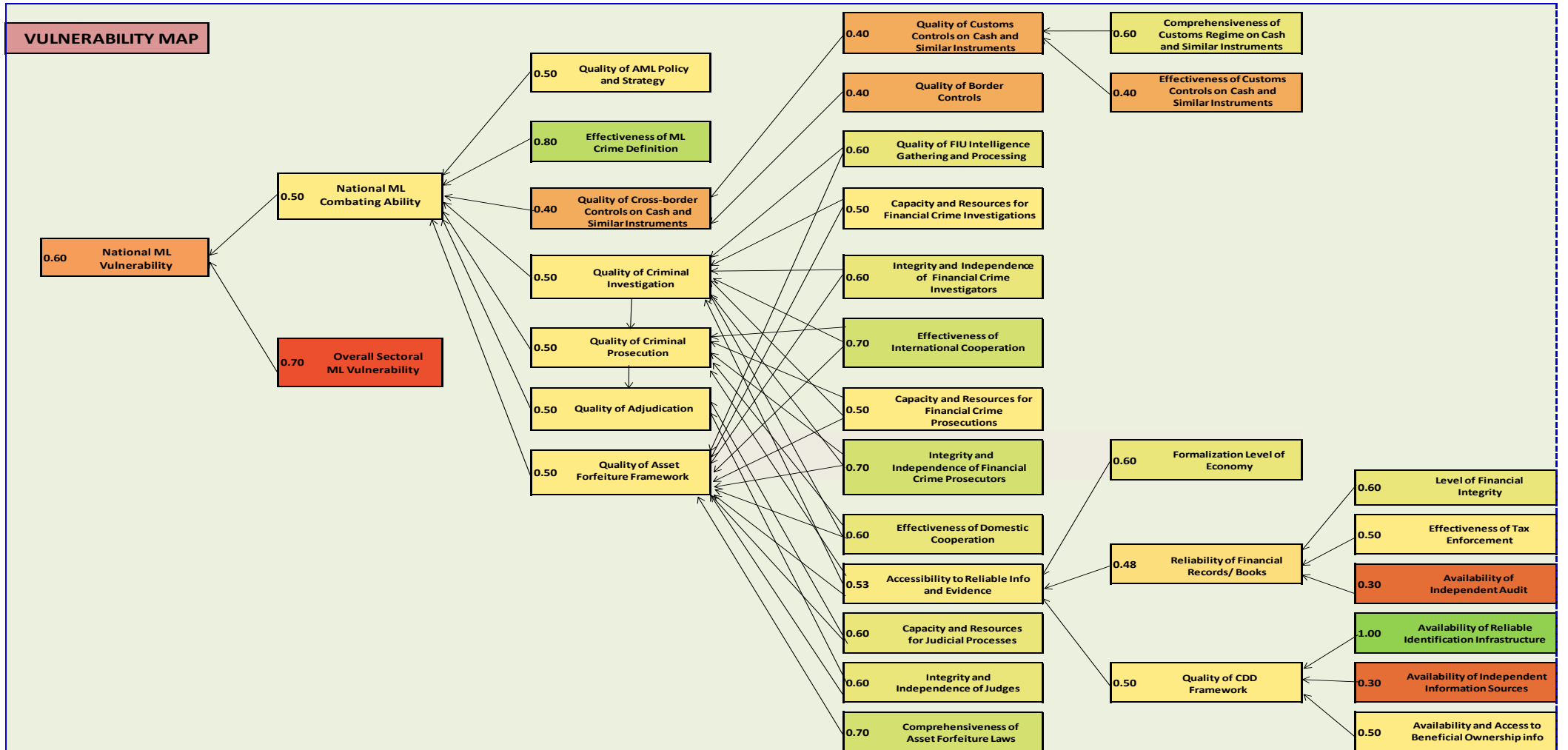
Using the NRA methodology developed by the World Bank, the overall national vulnerability is rated **Medium**. This is driven by two factors:

- The national combating ability which is rated **Medium** as a result of poor ratings on criminal asset forfeiture, criminal prosecution, criminal conviction and lack of capacity of financial crime investigators, challenges caused by lack of tax records, and beneficial ownership; and
- Overall sector vulnerability which is rated **Medium** with a score mainly due to the Medium high vulnerability of the DNFBPs sector and the Medium vulnerability of the Banking Sector and Other Financial Institutions comprising of Bureau des Changes and Remittance Service Providers.

Higher national combating ability reduces the national vulnerability, while higher overall sector vulnerability increases the national vulnerability.

The Table 3 below summarizes the national vulnerability to ML which is affected by the national combating ability and the overall sector vulnerability. The vulnerability map below shows the interrelationships between the factors affecting national vulnerability

Figure 2 Vulnerability Map



1.1.5.2 National Combating Ability

There are a total of 22 input variables that influence the country's ability to combat money laundering (re Annex 10). Data gathered from various sectors assisted in assessing the ML vulnerability of each sector.

The national combating ability is **Medium**. The table below summarizes the most vulnerable areas under this component of the national vulnerability assessment:

Table 3 - Components of the National Vulnerability Assessments.

| | |
|--|----------------------------|
| Criminalization of Money Laundering | Close to Excellent |
| Policy and Implementation | H |
| STR Data Analysis | H |
| Criminal Penalties | VH |
| Domestic Cooperation | H |
| International Cooperation in Criminal Matters | H |
| Capacity of Financial Crime Investigators | M |
| Integrity of Financial Crime Investigators | MH |
| Capacity of Financial Crime Prosecutors | MH |
| Integrity of Financial Crime Prosecutors | MH |
| Capacity of Presiding Officers | M |
| Integrity of Presiding Officers | MH |
| Capacity of Asset Forfeiture Investigators | ML |
| Integrity of Asset Forfeiture Investigators | MH |
| Asset Forfeiture Laws | Close to Excellence |
| Asset Forfeiture Orders | H |
| International Cooperation in Asset Forfeiture | Close to Excellence |
| Auditing and Accounting Standards and Practices | H |
| Tax Disclosure | M |
| Corporate and Trust Transparency | M |
| Identification Infrastructure | Close to Excellence |
| Availability of Independent Information Sources | MH |
| Financial Integrity | M |
| Formalization of Economy | MH |



1.1.5.3 Policy and Implementation

The assessment established that Seychelles, has formulated policies and established structures to oversee the implementation of the national anti-money laundering framework. These include;

- A National Committee on AML/ CFT which under its TOR, revised in 2015, is responsible to formulate strategy and advise government on AML/CFT issues.

The National AML Committee comprises of representatives from the Ministry of Finance, Ministry of Internal Affairs, Ministry of Foreign Affairs, Financial Intelligence Unit (FIU), CBS, FSA, Seychelles Investment Board (SIB), Registrar General, SLA, SRC, Police and NDEA and Attorney General's Office. This committee meets quarterly to discuss issues affecting proper implementation of AML requirements.

- The CFT Committee as set up under the Prevention of Terrorism (United Nations Security Council Resolutions 1267/1373), 2015 to oversee the implementation of the UNSCR 1267/1373 and formulate strategy in respect of combating the Financing of Terrorism.
- The political will to ensure that anti-money laundering requirements and other complimentary pieces of legislation aimed at targeting proceeds of crime and tools contain therein are up to date and operationally effective. This is evidenced by the enactment and amendments made to a number of legislation and accession to various international conventions/protocols over the last three years.

There are however, challenges which are mainly limited capacity of financial investigators, archaic pieces of criminal law which establishes the Penal Code and the Court service taking a long time to hear and adjudicate over financial crime cases including money laundering.

It is also a finding that there is insufficient consultation with key stakeholders when formulating AML national strategies.

Since the write-up of the report, there have been some legislative amendments which has resulted in the assets forfeiture unit being transferred to the Police. FIU remains with the mandate under the AML Act to investigate money laundering as an offence.

These factors make the rating for this variable to be **Medium High**.

1.1.5.4 Criminalization of ML

ML is criminalized under section 3 of the Anti-Money Laundering Act 2006. The Act defines money laundering using a threshold approach linked to the penalty of imprisonment for criminal conduct. The AML Act states that the definition of criminal conduct which is conduct or omission against law of the Republic or other States punishable upon conviction by imprisonment for life or for a term exceeding 3 years and/or a fine exceeding SCR 50,000⁶¹. This covers all serious offences in Seychelles.

The money laundering offence in Seychelles is criminalized on the basis of the Vienna and the Palermo Convention. It extends to any type that directly or indirectly represents proceeds of crime. The offence covers both acts and omissions. In order to prove that property is the proceeds of crime, it is not necessary for there to be a conviction for the offence that has generated the proceeds, or for there to be a showing of a specific offence rather than some kind of criminal activity, or that a particular person committed a criminal conduct on the balance of probability.

At the time of commencement of the NRA exercise, there had been 2 cases of successful ML convictions where the criminal conduct has been drug trafficking. Both cases had been investigated by the FIU jointly with the NDEA. The ML conviction rate, however, remains low and more attention needs to be given to capacitating financial crime investigators, Prosecutors and also the Courts as part of a broader national plan

This variable is therefore rated **Medium**.

1.1.5.5 STR Data Receipt, Analysis and Dissemination

The FIU receives STRs mainly from the banking sector. The fiduciary sector has also reported STRs from time to time. Most of the other DNFBPs have not yet started reporting STRs. This may be due to the fact that they have not yet been issued with sector specific guidelines and need training refresher.

The FIU is well structured to receive and analyse STRs and investigate criminal conduct. Established in 2006, in 2008, by an amendment to the AML Act, 2006, the FIU obtained law enforcement powers to investigate serious offences. The FIU is divided into 3 sections which also include a regulatory section.

⁶¹<http://greybook.seylii.org/w/se/CAP9A#!fragment//KGhhc2g6KGNodW5rxlVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdlYXLEh8SgxKLEpMSXxLTETsSHU8SQdELEpFJFTEVWQU5DRSx0YWVI6dG9jKSk=>

The Analytical Unit receives STRs and after analysis disseminate to the Asset Recovery Unit, the Seychelles Revenue Commission (SRC), the Police, the CBS or the FSA for further action as necessary.

Table 4 below indicates STR dissemination to the LEAs from the FIU in the past three years.

| Year | Total STRs Received | STRs Further Analyzed | Number of STRs Disseminated | Disseminated to LEAs |
|--------------|----------------------------|------------------------------|------------------------------------|---|
| 2013 | 110 | 92 | 67 | Asset Recovery Unit – 56 SRC – 4 NDEA – 6 FSA – 1 |
| 2014 | 149 | 105 | 72 | Asset Recovery Unit – 63 SRC – 3 NDEA – 4 FSA – 2 |
| 2015 | 152 | 117 | 88 | Asset Recovery Unit – 69 SRC – 4 NDEA – 11 FSA – 4 |
| Total | 411 | 314 | 227 | |

Ninety-five percent of the STRs originated from large banks, with the other five percent coming from small banks and International Corporate Service Providers (ICSPs). The low contribution of small banks is partly contributed by the fact that those banks do not have IT capability through automatic transactions monitoring system which allows them to easily identify patterns of transactions which are outside of the normal patterns. They therefore rely on manual identification. A low number of STRs is also reported in the other reporting entities including BDCs and remittance service providers. Looking at the volume of transactions going through these sectors compared with the banks, the low reporting is not justified. More effort needs to be put in training and awareness raising in respect of these sectors. At the time of writing this report, the FIU was pursuing a larger number of money laundering cases emanating from STRs. Although the FIU is still analyzing STRs manually, current volumes of STRs are still manageable for manual analysis, but it is anticipated that volumes will increase as the FIU continues rolling out AML/CFT training to other designated institutions.

The FIU does not receive Cash Transaction Reports.

The FIU receives and disseminates spontaneous disclosures from other FIUs and other requests for information through the Egmont Group network of FIUs and also Interpol. The FIU also work with the Commercial Unit of the Seychelles' Police on financial crime investigations that are fraud related.

The rating for this variable is therefore rated **Medium**.

1.1.5.6 Capacity of Financial Crime Investigators

Capacity of financial crimes investigators in this report refers to skills, experience, resources as well as powers required to effectively investigate the offences. ML investigations are mostly handled by the FIU and depending on the type of criminal conduct this is investigated jointly with other law enforcement agencies. It is a fact, however, that the focus of other law enforcement agencies is still very much on the investigation of criminal conduct.

The FIU has more knowledge on AML/CFT issues through interaction with the ESAAMLG and FATF through attendance of meetings. The FIU has a compliment of 11 financial investigators as at the time of writing. Other LEAs have limited financial and material resources to enable them to carry out their investigations effectively. It is also recommended that enhanced access to the systems and databases holding information of other departments such as Companies Registry and Land Registry, will improve capacity and efficiency in obtaining information.

The rating for this variable is therefore **Medium**.

1.1.5.7 Integrity of Financial Crime Investigators

There is no statistics of integrity breaches by ML investigators and there is no record of politicians and influential people interfering with investigations. ML investigators are protected, from political interference, through the Public Officer's Act and their internal code of conduct.

The heads of institutions involved in ML investigations are, however, appointed by the political leadership of the country, and are often perceived as political appointees. In the case of the FIU for example, the Director is appointed by the President but reports to the Board of the CBS on administrative matters.

There have been no reported cases of integrity breaches by police officers, although there is a general perception that cases on integrity breaches do exist. The NDEA reported 2 identified cases of integrity breaches by their officers and actions were taken under the criminal legislation to deal with those cases.

The rating for this variable is therefore rated **Medium High**.

1.1.5.8 International Cooperation in Criminal Matters

There is evidence of cooperation between the FIU, the Police, NDEA, customs and SRC with their fellow regional and international counterparts. The cooperation is developed through existing networks or through bilateral relationships with those counterparts. Since joining of the Egmont Group, the FIU's international co-operation has been enhanced and the requests for information received from and sent to the other FIUs have increased since.

Requests made to other jurisdictions are summarized in Table 5 below.

The rating for this variable is **Medium High**.

Table 5. International cooperation statistics- 2014-2015⁶¹

| Country | Number of requests from Country to Seychelles | | Number of request from Seychelles to the Country | |
|--------------|---|------|--|------|
| | 2014 | 2015 | 2014 | 2015 |
| US | 12 | 19 | 8 | 15 |
| UK | 6 | 8 | 5 | 9 |
| Latvia | 2 | 1 | 3 | 4 |
| France | 4 | 3 | 7 | 6 |
| Hong Kong | 0 | 1 | 7 | 8 |
| UAE | 0 | 0 | 0 | 1 |
| Mauritius | 5 | 7 | 1 | 2 |
| South Africa | 10 | 12 | 13 | 17 |
| Spain | 4 | 3 | 5 | 3 |
| Russia | 1 | 0 | 1 | 6 |
| Bulgaria | 2 | 3 | 1 | 0 |
| Switzerland | 3 | 2 | 2 | 2 |
| Ukraine | 1 | 2 | 3 | 4 |
| Germany | 2 | 1 | 3 | 2 |
| Norway | 1 | 0 | 2 | 0 |
| China | 0 | 0 | 1 | 0 |
| Japan | 0 | 0 | 1 | 0 |
| India | 0 | 1 | 2 | 3 |

1.1.5.9 Integrity of Financial Crime Prosecutors

Financial crime prosecutors in the country are generally viewed as having sound integrity. No cases of integrity breaches have been recorded against prosecutors from the Attorney General

(AG)'s Office. The AG's office lacks sufficient capacity to deal with all the cases and often the experienced prosecutors leave to take up more lucrative positions in the private sector.

Concerns have, therefore, been raised over the current low remuneration being paid to prosecutors potentially exposing them to temptation of receiving bribery.

The rating for this variable is **Medium High**.

1.1.5.10 Capacity of Financial Crime Prosecutors

There are no specific prosecutors assigned to financial crime prosecutions (*i.e. not only for ML prosecutions*), and when cases come up assignment is made to the pool of available prosecutors. The AG's Office indicated that it is planning to increase its number of prosecutors but that this has not been possible due to budgetary constraints. When joining, the prosecutors undergo in house training workshops and also attend regional workshops on AML/CFT.

The prosecutors have attended AML training as and when organized locally, including training organized by the FIU.

With only 2 ML prosecutions since the enactment of the AML Act, this variable has, therefore, been assigned **Medium** rating.

1.1.6 ML Vulnerability at National Level - Part 2

1.1.6.1 Domestic Cooperation

In Seychelles, domestic co-operation in operational AML/CFT issues and operations is coordinated through bi-lateral relations between the different actors. Key national issues at broader national level is taken up by the National AML/ CFT Committee which comprise of key members from different agencies including the FIU, Police, the National Drug Enforcement Agency (NDEA), Ministry of Finance and Economic Planning, AG's Office, Ministry of Home Affairs, Ministry of Foreign Affairs, Seychelles Revenue Commission (SRC), Department of Immigration, Financial Services Authority (FSA), Central Bank of Seychelles (CBS), Seychelles Licensing Authority (SLA), the Registrar General and Seychelles Investment Board (SIB). At the time of writing, the Committee meeting is also attended by the Members of the Finance Committee of the National Assembly. This National Task Force is required to meet at least once per quarter.

Between 2013 and 2015, the FIU undertook joint operations with both the NDEA and the Police. In addition, the manner by which the FIU is structured by having officers from the other law enforcement authorities and other competent authorities seconded to the FIU and working on the financial investigations through strict protocols. This has been carried out through Memoranda of Understanding (MoUs) that have been signed between the different agencies with the FIU and it is incorporated in the AML Act, 2006 itself. In that respect, the investigative

process of the FIU has been complimented by access of other financial information on subjects of investigations.

On the supervision side, the FIU has also signed a tri-partite MoU with the FSA and the CBS as supervisory authorities and through the MoU focuses on a comprehensive approach to raising awareness on AML/CFT issues, exchange of information and providing assistance where necessary.

FIU currently still holds the mandate to investigate money laundering and criminal conduct but its assets forfeiture capacity has been moved to the Police.

For these reasons, this variable was rated **Medium Low**.

1.1.6.2 Effectiveness of International Cooperation

International cooperation between Seychelles and other countries is generally very good and has seen a marked improvement from 2013 to 2015 both in terms of the agency cooperation with the international counterpart and also in terms of evidence exchange through Mutual Legal Assistance Treaties (MLATs).

Since joining of the Egmont Group the FIU has seen an increase in the number of requests received through the Egmont network. In addition, international cooperation has also happened over live cases where Seychelles provided information that was used to target assets or convict individuals.

The rating for this variable allocated is **High**.

1.1.6.3 Integrity and Independence of Judges

The integrity and independence of Seychelles Judiciary is provided for in the Constitution of Seychelles under Articles 119 of the Constitution. Between 2013 and 2015, there were no recorded cases of integrity breach that are reported. However in 2016, it should be noted that one senior Judge has been taken through disciplinary process and the outcome is yet to be determined.

Notwithstanding the non-existence of the recorded cases, from interviews carried out, it transpires that there is a perception generally that Judges are not completely independent and may be involved in integrity breaches that are not reported.

Judges and magistrates are appointed by the Constitutional Appointment's Authority ("CAA") a body also set up under the Constitution. There are also criticisms in respect of the appointment of Judges.

The rating for this variable is **Medium**.

1.1.6.4 Capacity and resources for Judicial Processes

The assessment was aimed at establishing whether the members of the judiciary that preside over ML cases have sufficient capacity to function effectively and ensure that matters are dispatched effectively and fairly.

Currently in Seychelles, ML cases and other financial crime cases are presided over by Judicial Officers who are earmarked to hear criminal cases. These officers were trained in 2014 by the World Bank on a training course specifically targeting the Judiciary. The Justices of Appeals have also attended regional trainings on AML/CFT. However, it is felt that this is not sufficient and more efforts need to be put in training presiding officers on ML and other financial crime cases.

Although there are capacity constraints at the level of the Judiciary, the importance of ML and proceeds of crime cases are recognized and such cases are prioritized. The general view is that right to property is a fundamental right under the Constitution and as such derogations to such right must be justified according to what is allowed under the Constitution and other Laws of Seychelles.

The rating for this variable is **Medium High**.

1.1.6.5 Effectiveness of ML definition

Section 3 (1) of the AML Act, 2006 provides for the offence of ML of which upon conviction the penalty is a fine not exceeding SCR 5,000,000 or to imprisonment for a term not exceeding 15 years or to both for a natural person and for a person other than a natural person guilty of money laundering is liable on conviction to a fine not exceeding SCR 10,000,000.

The offence for financing of terrorism is created under section 5 of the Prevention of Terrorism Act, 2004 which states as follows:

‘Every person who provides or collects, by any means, directly or indirectly, any funds intending, knowing or having reasonable grounds to believe that the funds will be used in full or in part to carry out a terrorist act commits an offence and shall, on conviction, be liable to imprisonment for a term not less than seven years and not more than 20 years’.

These penalties for both offences were considered to be deterrent by ESAAMLG as part of the mutual evaluation of Seychelles, of which the report was published in 2008, when compared against the FATF requirements.

This variable is therefore rated **High**.

1.1.6.6 Comprehensiveness of Asset Forfeiture Laws

Asset Forfeiture regime in Seychelles covers both criminal asset forfeiture and civil asset forfeiture. The following pieces of legislations provide for the broad asset forfeiture framework:

- Proceeds of Crime (Civil Confiscation) Act, 2008
- Anti-Money Laundering Act, 2006 as amended
- Misuse of Drugs Act, 1995
- Anti-Corruption Act, 2016

These pieces of legislation are rated as sufficient to provide for the seizure, freezing and forfeiture of proceeds and instrumentalities of crime. Under the civil confiscation regime a conviction is not necessary to determine that the property is the proceeds of crime on the balance of probability. The provisions under the AML Act and the Proceeds of Crime (Civil Confiscation) Act, 2008 are mostly used to target proceeds of crime.

In relation to freezing orders made pursuant to UNSCRs 1267/1373, this is provided for in the Prevention of Terrorism Act (Implementation of United Nations Security Council Resolutions 1267/1373) promulgated in August 2015.

It is, therefore, concluded that there are comprehensive laws governing both criminal and asset forfeiture, and thus this variable was rated **High**.

1.1.6.7 Capacity and Resources of Financial Crime Investigations

Financial crime investigations in Seychelles are currently being handled by the FIU and the police officers assigned to the Commercial Crimes Unit, both of which are also responsible for investigating criminal conduct. These investigators are, however, guided by prosecutors from the AG's Office.

Between the FIU and the Police, in total there are 16 trained financial investigators in Seychelles. However, it is felt that more needs to be done across all agencies to provide training on investigation of financial crime. Although the AML Act has been in force since 2006 there have been very few money laundering charges issued and only 2 pecuniary penalty orders made against convicted persons under the AML Act. The focus is still, therefore, on investigation of predicate offences (criminal conduct).

In view of this, this variable has a **Medium**.

1.1.6.8 Integrity and Independence of Financial Crime Investigators

This variable measures whether asset forfeiture investigators are able to conduct investigations without fear or favour and use their powers correctly, fairly and appropriately to manage the seizure or forfeited assets.

There are no recorded cases of integrity breaches documented for the financial crime investigators operating through the FIU and the Police Commercial Crime Unit. The financial crime investigators all have to sign the Officials Oath⁶² before joining the organization and have to abide by the rules and codes set out under the Public Officers Ethics Act⁶³.

The rating for this criterion is rated as **Medium High**.

1.1.6.9 Availability of Independent Audit

Currently in Seychelles, accountants and auditors fall within the definition of ‘reporting entity’ under the AML Act, 2006 and are therefore supervised for AML/CFT purposes by the FIU.

Auditors and accountants are, however, not required to have a license or attend professional exams or be recognized by professional body to operate in Seychelles. The relevant Act is currently in draft stage to make amendments to address these types of deficiencies.

There is no industry issued accounting or auditing standards that such professionals have to abide to. As such, this variable is rated **Low**.

1.1.6.10 Identification Infrastructure

In Seychelles all citizens are issued with birth certificates and with a National Identification (ID) card having a unique identifier in the form of a National Identity Number. Permanent residents and persons on Gainful Occupation Permits (GOPs) are also issued with the national ID. The ID is the primary identification document alongside the passport, and the driver’s license. All Seychelles citizens possess a national ID number.

There is in place a systematic method of allocating ID numbers which contains other useful identifiers which are often used by banks as an indication of the status of residency of customers.

In view of this assessment especially that the country has a strong national identification infrastructure, this variable was rated as **Excellent**.

1.1.6.11 Availability of Independent Information Source

Information in Seychelles is available but not necessarily easily accessible to all users. In terms of the AML Act, 2006 all designated institutions are required to keep records for at least 7 years. Independent verification of information therefore is a challenge in particular to reporting

⁶²<http://www.seylii.org/sc/legislation/consolidated-act/153>

⁶³<http://greybook.seylii.org/w/se/2008->

[14#!fragment//KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdIYXLEh8SgxKLEpMSXxLTEtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk](http://greybook.seylii.org/w/se/2008-14#!fragment//KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdIYXLEh8SgxKLEpMSXxLTEtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk)

entities such as banks for carrying out Customer Due Diligence (CDD). The Credit Information System for example contains useful information on customers that can be used for verification purpose, however, the use of the system is limited to credit checks only.

The assessment rating for this component is **Low**.

1.1.6.12 Availability and Access to Beneficial Ownership Information

The Seychelles' Companies regimes can be divided into two systems. The first one addresses company formation under the local Companies Ordinance⁶⁴ and the other addresses formation of companies and other structures within the offshore sector. It should be noted that the different types of legal arrangements (trusts, foundations) which can be established by law in the financial services sector, cannot be created under Seychelles' civil law regime.

The requirements under the Companies' Ordinance are more or less in line with the FATF recommendation 24 except for the requirement to impose obligation to have beneficial ownership information maintained and kept up to date in Seychelles. It is required that the information on the directors and shareholders and other basic information on the companies are submitted to the Registrar and these are publicly available. Bearer shareholdings are not permitted.

The Companies' Ordinance does not make any reference at all to the term "beneficial ownership". Whilst under the AML Act reporting entities have an obligation to identify the beneficial owners of their customers, that obligation only applies as far as where a corporate structure avails of the services of a reporting entity and in terms of law enforcement investigations do not guarantee that the beneficial ownership information is made available and accessible in Seychelles. The regime is further weakened as it allows for companies to have corporate shareholders and leave the companies to potentially have opaque layers of ownership structure.

The main criticisms of the current legislative requirements for companies incorporated under the International Business Companies' Act, 2003 and other entities and legal arrangements registered or constituted under the International Trusts Act and the Foundations Act, 2004 when compared with the FATF requirements, are that the information on the Companies and legal arrangements are maintained by a custodian and not shared with the Registrar. The implication, therefore, is that such information although available is not publicly available except for the name of the registered agent of the company.

⁶⁴<http://greybook.seylli.org/w/se/CAP40#!fragment//KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdlYXLEh8SgxKLEpMSXxLTetsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk=>

Other criticisms, are that because the law makes provision for 3rd party reliance, there is no guarantee that information on the entities registered will be available immediately in Seychelles where there is an on-going investigation although the law placed responsibility on the reporting entity to make sure that the information is being kept by the 3rd party and that it is updated. It should be noted that banks and BDCs are not permitted to rely on 3rd parties and must carry out their own CDD.

Lastly, the practice of using “nominees” both for shareholders and directors makes the legal entities and arrangements less transparent.

For this reason, the rating is **Medium**.

1.1.7 ML Vulnerability at National Level - Part 3

1.1.7.1 Effectiveness of Tax Enforcement

Tax enforcement is guided by the provisions contained within the Seychelles Revenue Administration Act, 2003 and the Business Tax, VAT, Income Tax, Customs Management and Excise Tax Acts.

There are legal obligations on persons to submit tax returns to Seychelles Revenue Commission (SRC). However, this information is treated as confidential but can be accessed by the LEAs when a formal investigation has been initiated.

Under the current tax regime, tax evasion only incurs financial penalties and possibly civil imprisonment. The mechanism for enforcement is through the Civil Courts of Seychelles and not through the criminal Courts. Because of the threshold and the value of the financial penalties that can be imposed, tax evasion on a case by case basis may amount to criminal conduct as defined under section 3 of the AML Act, 2006 and money laundering cases may be initiated with tax evasion as a predicate offence.

Generally, there is a tendency in Seychelles for people not to make their tax disclosures and pay their taxes. Anecdotal evidence all suggest that the big companies operating through groups and multi-national companies across different sectors engage in transfer pricing. Tax enforcement through the civil courts, is said to be too lengthy and the process cumbersome.

This variable is rated **Medium**.

1.1.7.2 Financial Integrity

The level of financial integrity is generally rated as high in Seychelles. This is so in the banking sector and across other well supervised sectors such as the insurance sector.

This reputation has been dampened where a bank, Bank of Muscat International Offshore (BMIO)⁶⁵, lost its correspondent banking relationship, following which the CBS intervened to take over administration of the bank. From this incident it was felt that the corporate governance framework was not strong enough in Seychelles. Following this incident the CBS issued Corporate Governance Guidelines in 2015⁶⁶. It is to be noted, however, that senior members of the management were not taken to task for their contribution in respect of the causes that led to the loss of correspondent banking relationship. In addition, there are no known cases where members of management or the Board has been taken to task in respect of mal-administration or mismanagement or breach of fiduciary duty or in relation to conflict of interest cases.

In the other parts of the sectors, there are currently no general corporate governance principles that market players have to abide to.

The rating for this variable is **Medium High**.

1.1.7.3 Formalization of Economy

According to the Central Bank's report on formalization of the Seychelles' economy finalized in 2013 and updated in 2016 for the purpose of the NRA, the level of formalization of the Seychelles' economy rests at 79%.

This variable is rated **Medium High**.

1.1.7.4 Overall Sector Vulnerability

The other component feeding into the assessment of national vulnerability is overall sector vulnerability. This component collects findings from other modules on various sectors of the economy, including the banking sector, securities sector, insurance sector, other non-bank financial institutions, and DNFBPs. Assessment of these components are explained in detail in the respective sections of this report.

The overall vulnerability of the sector is **High** on the assessment tool.

The results from these sectors are summarized in Table 6 overleaf:

Table 6 National Vulnerability by Sector

⁶⁵<http://www.seychellesnewsagency.com/articles/5215/BMIO+becomes+Al+Salam+Bank+Seychelles+as+Central+Bank+hands+control+to+new+shareholders>

⁶⁶<http://www.cbs.sc/Downloads/legislations/Guidelines%20on%20communication%20between%20CBS%20and%20the%20internal%20audit%20function%20of%20banks%20and%20other%20financial%20institutions.pdf>

| SECTORS | FINAL VULNERABILITY SCORE |
|--|---------------------------|
| Banking | 0.7 |
| Bureau De Changes and Remittance Service Providers | 0.7 |
| Insurance | 0.3 |
| Gambling | 0.5 |
| Real Estate | 0.6 |
| Auditors and Accountants | 0.4 |
| High Value Dealers (yachts & boat dealers) | 0.4 |
| Lawyers & Notaries | 0.6 |
| Fiduciary (securities, TCSPs) | 0.7 |
| Motor Vehicle Dealer | 0.6 |



The sectors with the highest vulnerabilities carrying the highest weightings are the banking, the BDCs (including Class ABDCs) and Fiduciary (securities, TCSPs) sectors. Looking at the statistics obtained from the LEAs the motor vehicle and the real estate sectors are also high on the list.

1.1.7.5 Priority Areas

The main priority areas (in order of highest ranked in terms of vulnerability) for the authorities and the stakeholders to improve are as listed below:

- a. According to sectors:
 - Banking Sector
 - Bureau de changes (BDCs) sector
 - Fiduciary (securities, TCSPs)
 - Real Estate sector
 - Motor Vehicle sector
 - Attorneys and Notaries

- b. According to national combating abilities:
 - Capacity of Financial Crime Investigators
 - Capacity of Prosecutors
 - Capacity of Judicial Officers

- Availability of beneficial ownership information
- Policy and Implementation
- Corporate and Trust Transparency
- Tax Disclosure
- Independent Information Sources

1.2 MONEY LAUNDERING RISK AT NON-BANKING FINANCIAL (OFFSHORE) AND FIDUCIARY SERVICES PROVIDERS (NBFFSP) SECTOR

1.2.1 The Seychelles Non-Banking Financial Services (Offshore Sector)

Seychelles first recognized the potential revenue generating capabilities of the financial services sector in the early 1990's but the industry only began to take off in the early years of the following decade. Today with robust business and financial connections to both Western Europe and South Asia, Seychelles has grown to be one of the most successful financial services provider in the Indian Ocean region and the industry is rapidly becoming a third pillar (alongside tourism and fisheries) of the country's economy. Seychelles also features on the list of the most prominent offshore jurisdictions offering competitive legislation and favourable company formation around the world.

The Seychelles' Financial Services Sector comprises of 67 companies holding an international corporate services license, 25 companies holding an international trustee services license and 14 companies holding a foundation services license. Note that all licenses have been issued under the International Corporate Service Providers Act, 2003 as amended ("ICSP Act")⁶⁷.

The licensees range from reputable international subsidiary companies, to smaller local based businesses that are commonly owned by accountants and legal practitioners. The sector employs approximately 300 staff with offices ranging in size from 2 to 40 staff. The core businesses of Corporate Service Providers thereafter referred to as ("CSPs") are to assist international clients with the formation, management and administration of offshore entities in Seychelles, serves as registered agent, director and nominee shareholder on specified entities. Additionally CSPs provide a range of ancillary services such as corporate advisory, office hosting, secretarial services and assist clients with their statutory filings.

Persons that provide such services are referred to as Registered Agents and are licensed by the Financial Services Authority ("FSA") which as of March 2014⁶⁸ took over the responsibilities of the previous regulator being the Seychelles International Business Authority ("SIBA") for the licensing and supervision of the offshore sector. The FSA is also the Registrar for International Business Companies ("IBCs").

Note that the Financial Intelligence Unit ("FIU") remains the primary regulator for AML matters and CSPs for the purpose of the Anti-Money Laundering Act ("AML Act") are deemed to be reporting entities.

⁶⁷<http://greybook.seylii.org/w/se/2003-10>

⁶⁸<http://seychelles-offshore-companies.offshore-journals.com/category/siba/>

1.2.1.3 National Risk Assessment Process and Methodology

1.2.1.3.1 Preparation and Planning

The initial phase consisted of preparation and planning on how to conduct the NRA of the sector, including:

- Engagement of market participants through their relevant representatives;
- Choice of tools to use data and information collected; and
- Scheduling of team member meeting and setting targets for completion of tasks.

1.2.1.3.2 Data and Information collection

In order to gather data and information to support the allocated ratings for each Money Laundering variables and determine the overall vulnerability of the Seychelles financial services sector, each variable was distributed among the offshore sector team members to:

1. devise survey questions targeting the market player and competent authorities having regulatory oversight on the sector;
2. collect relevant statistics from relevant institutions;
3. review reports undertaken on the sector by international standard setting bodies (such as OECD and FATF); and
4. consult market participants and/or relevant authorities

Enclosed per Annex 11 and Annex 12, are two templates of the survey questionnaires that were disseminated to Market Participants and the Financial Intelligence Unit. The main variables considered for the Market Participant survey in respect to AML Control were Integrity of Business/ Professional staff, AML Knowledge of Business/ Professional Staff, Effectiveness of Compliance Function (Organization), Effectiveness of Suspicious Activity Monitoring and Reporting and Availability and Access to Beneficial Ownership information. For the Inherent Vulnerability factors the market participants were assessed on Client-Base profile of the business, level of cash activity associated with the business and the use of Nominee Services.

For the FIU Survey Questionnaire, the main variables considered were effectiveness of Supervision/Oversight Activities, availability and enforcement of administrative sanctions, availability and enforcement of criminal sanctions, Client-Base profile of the business and use of the product in fraud or tax evasion scheme.

It is important to note that the Questionnaire response and other data source were employed to justify variable ratings.

1.2.1.4 Offshore sector Assessment

Table 7 hereunder illustrates the allocated assessment rating for the general input variables following the analysis of data and information collected from the survey undertaken and other sources consulted.

Table 7: Assessment ratings for general input variables

| 1. GENERAL INPUT VARIABLES | ASSESSMENT RATING | |
|---|-------------------|-----|
| Availability and Enforcement of administrative sanctions | Low | 0.3 |
| Availability and Enforcement of criminal sanctions | Medium Low | 0.4 |
| AML Knowledge of Business / Profession staff | Medium High | 0.6 |
| Effectiveness of compliance function (Organisation) | Medium High | 0.6 |
| Integrity of Business / Profession staff | Medium High | 0.6 |
| Effectiveness of Supervision / Oversight activities | Medium High | 0.6 |
| Effectiveness of Suspicious Activity Monitoring and reporting | Medium High | 0.6 |
| Availability and Effectiveness of entry controls | High | 0.7 |
| Availability and Access to Beneficial Ownership information | High | 0.7 |
| Comprehensive of AML framework | High | 0.7 |

1.2.1.4.1 Availability and Enforcement of Administrative Sanctions

Being an integral part of supervisory action, the importance of the availability and enforcement of administrative sanctions, is to provide a deterrent that can also act as a catalyst to ensure that regulations are complied with and acts as a tool to take action if a regulated entity (CSP) does not adhere to the obligations imposed by the AML laws and regulations.

In view that the AML Act does not make provision for administrative sanctions the rating assigned to this variable is **Low**.

The FSA has powers to take enforcement action against a CSP, if the CSP has contravened or is in contravention of the Anti-Money Laundering Act as per provisions of section 27 (1) (a) (ii) of the Financial Services Authority Act, 2013 (“FSA Act”).

Findings

The current AML Act provides only for criminal sanctions and does not make any provision for administrative sanctions (such as monetary penalties, suspension or removal of critical staff), which is why from statistics received no administrative sanctions has been recorded.

Notwithstanding the AML Act does not make provision for administrative sanction for AML breaches, the FSA under the FSA Act can impose certain administrative sanction such removal of critical staff and suspension or revocation of license. Illustrated hereunder are the recorded cases of imposed administrative sanctions taken by FSA for AML breaches;

| | |
|---------------------------|---|
| License Revoked | 3 |
| Removal of Fit and Proper | 6 |

In view, that the power of the FSA extends to certain AML breaches, the working group perceived that persons working in the fiduciary services sectors believes that administrative enforcement action would be initiated in cases of non-compliance with the AML requirement and as such to certain extent, it is satisfied as being a dissuasive sanction.

1.2.1.4.2 Availability & Enforcement of criminal sanctions

This variable assesses whether Seychelles has a range of effective proportionate and dissuasive administrative sanctions applicable to natural or legal persons in cases of non-compliance with AML laws and regulations, which should include sanctions for serious and deliberate breaches that can be ancillary to the ML offence.

Part 6 of the AML Act, sets out the Offences and Penalties for non-compliance by reporting entities' with their obligations under the AML Act. This covers offences such as failure to maintain records, failure to maintain account in true name, failure to report suspicious transactions, making false or misleading statements, failure to implement internal rules; and failure to appoint a compliance officer or provide training.

Based on the survey, this variable has been assigned a rating of **Medium Low**.

Findings

It appears that licensees within the industry regard the criminal sanctions regime as not sufficiently dissuasive, in view that from the statistics of FIU, it appears that to date a number of investigations have been initiated where no conviction has been recorded as at date.

1.2.1.4.3 AML Knowledge of Business / Professional Staff

CSPs should be required to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business, and which include internal policies, procedures and controls and on-going employee training programme.

Following the analysis of information and data collected, this variable on how well the professional and staff of the CSPs know and understand their duties and responsibilities has been assigned a score of **Medium High**.

Section 15(1) of the AML Act states that a reporting entity shall train its officers, employees and agents to recognize suspicious transactions, trends in money laundering and financing of terrorism activities and money laundering and financing of terrorism risks within the reporting entity's products, services and operations.

In addition, section 23 of the FSA Act, requires all CSPs to appoint an individual approved by the Authority as its compliance officer who shall be responsible to;

1. Oversee the compliance of the CSPs with the requirements of the FSA Act and other financial services legislations;
2. For establishing and maintaining a program for training of staff.

The person appointed as the compliance and reporting officer under section 15 of the AML Act may with the approval of the Authority serve as the compliance officer under section 23 of the FSA Act.

It has been observed by the Working Group ("WG") that in most cases, the appointed compliance officer under section 23 of the FSA Act equally serves as the compliance and reporting officer under section 15 of the AML Act. As such, the FSA exercises entry control on persons having significant responsibilities towards the licensable activities (which capture compliance) through the assessment of fit and proper prior to the appointment taking effect. This is to ensure that the applicants have appropriate educational/professional certification including expertise for the position.

The following criteria were used to assess the knowledge & skills of the staff in the industry that are responsible for implementing the AML/CFT controls within CSPs:

1. Availability of AML training programme;
2. Is AML compulsory for all staff;
3. Is training provided In-house or through external parties;
4. Monitoring the effectiveness of training provided;
5. Retention of training records;
6. Frequency of AML training;
7. Staff level of awareness on AML matters; and
8. Systems in place to ensure that staff are aware and understand the AML obligation of the CSPs and the consequences of AML compliance breaches.

The responses of the survey indicated that majority of the CSPs have an AML training programme which is compulsory for all staff. Whilst it was also noticed that most of the CSPs had in-house AML training with tutors having the necessary qualifications, they also relied on external parties for training such as annual CLBS training facilitated by the FSA.

Monitoring of the effectiveness of the training provided was conducted by the CSPs through:

1. Reports from staff who have undertaken the training;
2. By monitoring staff performance on a daily basis and questioning them on their knowledge of any recent training;
3. Assessments held after training, after course discussions with the employees; and
4. The responses to clients and third parties who make enquiries; and how matters are being handled.

Findings

Generally, the CSPs provide AML training to staff on an annual basis, whilst a few of them provided bi-annual AML training to their staff. Reading the AML manual during the start of employment, quarterly in-house AML tests, periodic in-house refreshers and discussion of latest developments in the industry vis-a-vis AML during monthly staff meetings were some of the systems in place adopted by the licenses to ensure that the staff are aware and kept abreast of the developments on AML matters, which serves as ongoing refresher trainings.

It was perceived by the working group that there is general knowledge by professional staff of the AML training requirement. However there is a need to adopt a mandatory structured framework which would encompass the training needs analysis, enrolment on training program and monitoring the successful completion of same by the CSPs and the competent Authority.

1.2.1.4.4 Effectiveness of Compliance Function (Organization)

The variable assesses whether firms within the sector have an effective compliance function that is comprehensive, risk based, and well resourced, with an independent AML compliance function.

An effective compliance function in an organisation means having internal compliance programs that are commensurate to the level of the risk of the CSPs, taking into account factors such as the jurisdiction's end user clients; applicable legal and supervisory frameworks and business practices of professional intermediary clients, particularly those located in other jurisdictions; clients that are complex or have opaque legal structures; the volume and nature of products provided; client-base profile transaction patterns and cross-border nature of transactions.

Based on the industry survey, the variable has been assigned a **Medium High** risk rating.

Findings

The responses received indicated that most CSPs have internal compliance programmes which included all the key factors required in the survey. However, some CSPs had indicated that their compliance and Reporting Officers are not functionally independent from the operational functions of the CSPs.

1.2.1.4.5 Integrity of Business / Professional Staff

The variable assesses whether the directors, managers and staff of CSPs act with integrity. It is important for CSPs to have in place an effective and appropriate system and framework to protect it against integrity breaches, which can undermine AML Controls and leave CSPs vulnerable to money laundering abuse.

Paragraph 9 and 13 of Schedule 2 of the ICSP Act requires CSPs to notify the Authority;

1. of any conviction against the CSPs and its associates or any of its employees for any offence relating to fraud and dishonesty; and
2. Immediately of serious disciplinary action, it takes against any member of its managerial staff. In this paragraph, "Serious disciplinary action" includes any action taken in cases of fraud, theft, dishonesty or malpractice.

Furthermore, the AML Act provides measures to protect the Directors and the staff of the CSPs for disclosure of information to the FIU.

Based on the industry survey, the variable has been assigned a **Medium High** risk rating.

Findings

Statistics provided by CSPs indicates that from 2013 to 2016 there have been only 4 cases of integrity breaches recorded, only 2 cases whereby serious disciplinary action has been taken against staff for integrity breaches and there have been no cases where staff have been involved in criminal cases including money laundering.

Majority of the respondents stated that they have systems in place to identify an incident of integrity failure through monitoring of communication, both incoming and outgoing, behaviour/ lifestyle of staff, interview by Auditors during year-end audit, dual control to ensure accuracy at all time while preparing client documents and adopting layers to the oversight / control functions so that staff are not operating in isolation.

In addition, paragraph 4 of the code of practice of the ICSP Act, requires that the services under a license be conducted by at least two individuals who are directors or other members of the managerial staff of the licensee, who are resident, and based in the office of the CSP in Seychelles. This serves as a control mechanism to ensure that no integrity breaches are taking place or are rather minimal and insignificant in view of the practice of doer checker, which takes place in CSPs in line with their dual control obligation.

It was perceived by the working group that although the number of cases of integrity breaches recorded is significantly low, in effect it maybe indicating a deficiency in the internal system and control of CSPs to effectively detect cases of integrity breaches.

1.2.1.4.6 Effectiveness of Supervision / oversight activities

The mission of FIU is to effectively detect and deter money laundering and financing of terrorism, in collaboration with local law enforcement agencies, regulators and international counterparts, thereby contributing towards a safe and stable financial, social and economic environment. Section 16 of the AML Act specifies the function of the FIU, which includes the function of FIU as the primary AML supervisor. More specifically section 16C of the AML Act provides powers to the Director or any person authorized by the Director to examine records of a reporting entity.

Findings

This variable aimed to assess the effectiveness of AML supervisory and regulatory framework for the financial services sector. Based on the assessment criteria and the results of the survey undertaken, this variable carries an assessment rating of Medium **High**.

Outlined hereunder are some the core findings from the survey undertaken;

1. FIU is clearly identified in the law and regulations and has appropriate authority and mandate to conduct AML compliance supervision;
2. The FIU has in place written policies, procedures and manuals relating to its supervisory functions. However in the absence of knowledge of the content of these documents the WG were unable to establish its effectiveness in practice;
3. FIU has implemented a risk based supervisory program for both its on-site and off-site monitoring which consists of three core elements; ML/TF risk assessment of all reporting entities on the basis of self-assessment carried out by the reporting entities; Real time reports to determine inherent risks profile of all reporting entities; and Off-site risk and ML/TF examinations. However, in the absence of relevant information, necessary statistics and test undertaken, the WG were unable to establish the comprehensiveness of the framework;
4. Given that the FIU has oversight over quite a number of sectors for AML matters and the volume of entities/ products under its purview, through statistics provided the WG has established that the human capacity being employed is not proportionate to the volume of market partakers; and
5. Given that the FIU is budget dependent the WG concluded that given the volume of entities which it regulates the FIU has insufficient resources available to it to ensure the effect application of its supervisory activities;

1.2.1.4.7 Effectiveness of Suspicious Activity Monitoring and Reporting

CSP's as reporting entities under the AML Act are required to make a Suspicious Transaction Reports ('STR') to the FIU where it has knowledge or reasonable grounds to suspect that any transaction or attempted transactions may be related to the commission of an offence of money laundering.

Based on the assessment criteria, this variable carries an assessment rating of **Medium High**.

Findings

The systems, policies or practices to monitor suspicious transaction were the main criteria used for this variable and it has been deduced from the survey that most CSPs have information systems in place to;

1. enable and facilitate the monitoring and comparison client transactions against the client's profile;
2. support the effective performance of PEP screening;
3. effectively identify and record all complex, unusual large transactions;
4. effectively identify and report suspicious transactions; and
5. conduct internal audit and maintain records on suspicious, abnormal and complex transactions.

However although most CSP's have indicated that they have systems to monitor Suspicious Transactions, it remains to be tested to confirm its reliability and effectiveness.

Additionally, from the results of the survey, some of the CSP's have raised concerns in respect to the poor response of the FIU where in certain instances no acknowledgement or feedbacks is provided for the STR submitted. In some cases it takes too long for the FIU to revert or they never revert, which places them in a discomforting position.

As such, there is room for improvement in enhancing the communication between the FIU and the CSPs. Additionally, it has been stated that the FIU should share the STR with the FSA for the purpose of monitoring suspicious transactions and take appropriate actions against the parties involved.

1.2.1.4.8 Availability and Effectiveness of Entry Controls

Being the gate-keeper and having the oversight of the potential entrant seeking to penetrate the sector and existing CSPs that apply to extend their current services, the FSA is entrusted with the key responsibility to ensure that it has in place effective entry controls. It is generally perceived that the entry control mechanisms in place for the Fiduciary Services Sector are effective hence, based on the assessment criteria, this variable carries an assessment rating of **High**.

Findings:

The ICSP Act provides for a comprehensive and stringent framework for licensing of international corporate services providers, which includes but not limited to;

1. Assessing the fitness and propriety of each director shareholders, Ultimate Beneficial Owner and managerial staff, the financial soundness and reputation, character, financial integrity and reliability of the applicant.
2. Due diligence on the group company;
3. applicants internal control systems, AML and compliance manuals; and
4. verifying the credibility of applicants with both Domestic and International counterparts

Under the FSA Act, the FSA has the power to impose conditions upon licensing and take enforcement actions if any of the above-mentioned criteria is compromised post licensing.

1.2.1.4.9 Availability and Access to Beneficial Ownership Information

A Beneficial Owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

The Seychelles' companies' regimes can be divided into two systems. One addresses company formation for local companies and is governed by the Companies Ordinance, 1972 and the other addresses formation of companies and other structures within the financial services sector.

Findings:

All CSPs licensed under the ICSP Act are incorporated under the Companies Ordinance, 1972 and it is required by the Company Ordinance that information on the directors and shareholders and other basic information on the companies be submitted to the Registrar and these are

publicly available. Additionally both the AML legislations and Paragraph 1 of schedule 2 ICSP Act, requires CSPs to;

1. identify the beneficial Owner of each company to which they provide international corporate Services;
2. the beneficiary and settlor of each international trust to which they provide international trustee services;
3. the beneficiary, founder, protector of each foundation to which they provide foundation services; and
4. the partners of each limited partnership to which they international corporate services.

Furthermore, paragraph 3.2 of the Code for ICSP requires each person having an ownership interest in an application to be of satisfactory repute and financial standing.

In addition , Section 6 (4) (b) of the ICSP Act, requires every licensee to give prior notice in writing of any change to the beneficial ownership of such shares in the company holding the license and the Authority may require the licensee to furnish further information or documents in respect of such change.

Secondly in respect to the International Business Companies (“IBC”) that are being administered by the CSPs, through the enactment of the International Business Companies Act 2016, (“IBC Act”) new obligation has been introduced under this law requiring every IBC to keep at its registered office (the office of its registered agent) a register to be known as the register of beneficial owner which would include certain particular details of the individual as prescribed under section 356(1) of the IBC Act, 2016.

Guidelines issued for IBCs more specifically paragraph 24 provide further clarity in respect to beneficial ownership. Whilst it is permissible under the Law to use nominee services provided by CSP, there exist clear obligation of disclosure between the nominee and each beneficial owner of an IBC. Section 356(1) (b) requires the Register of Beneficial Owners to include “particulars of each beneficial owner’s beneficial interest and how it is held;” Compliance with this provision necessitates disclosure of any shares in the company held by the beneficial owner directly or through a nominee. If the latter applies, disclosure of the member holding shares on behalf of the beneficial owner must be made in the Register of Beneficial Owners. As such in cases that shares of a company are being held directly or indirectly on behalf of a person which qualify of being a beneficial owner of the company, such details would be records in the register of beneficial owner and for consistency purposes it should reflect entry recorded in the register of shareholders (being legal owners of the share).

The Register of beneficial owners (which is maintained in Seychelles at the registered office of the CSP) is prima facie evidence of any matters which are directed by the IBC Act or

permitted to be inserted in it. As such beneficial ownership information relating to IBCs are now available in Seychelles and it may be accessed by specific relevant person (e.g. FSA and other competent Authority for Tax purpose and AML/CFT). However, such information, although available, is not publicly available.

Based on the assessment criteria, this variable carries an assessment rating of **High**.

1.2.1.4.10 Comprehensiveness of AML legal framework

FATF set out the international standard to be adopted by countries based on its particular circumstance to ensure that it has comprehensive AML laws and regulations to combat money laundering and terrorist financing. As the Seychelles Anti-Money Laundering framework is to a great extent in line with the FATF recommendation this variable has been assigned a rating of **High**.

1.2.1.5 CSP Sector Vulnerabilities

1.2.1.5.1 Product

The business is international (non-domestic) in nature and Table 8 hereunder depicts the cumulative number (total number of entities ever registered) of offshore entities registered in the Seychelles for the past 5 years. As illustrated below, the majority of services being provided by CSPs are services in relation to IBCs. It is important to note that, as at September 30th, 2017 whilst 197,450 IBCs were on the Register of IBCs only 64,309 IBCs were in good standing.

Table 8: Cumulative number of offshore entities registered in the Seychelles for the past 5 years

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 ⁶⁹ |
|---|---------|---------|---------|---------|---------|---------|--------------------|
| <i>International Business Companies</i> | 100,825 | 116,923 | 137,670 | 158,492 | 176,558 | 188,731 | 197,450 |

⁶⁹September 30th, 2017

| | | | | | | | |
|---------------------------------|-----|-----|-----|-----|-----|-----|-----|
| <i>Company</i> | 246 | 260 | 273 | 287 | 299 | 306 | 315 |
| <i>Special Licenses</i> | | | | | | | |
| <i>Foundations</i> | 98 | 208 | 286 | 421 | 514 | 602 | 670 |
| <i>International Trusts</i> | 469 | 518 | 559 | 606 | 659 | 692 | 715 |
| <i>Limited Partnerships</i> | 23 | 24 | 27 | 28 | 29 | 29 | 32 |
| <i>Protected Cell Companies</i> | 5 | 5 | 6 | 11 | 12 | 13 | 15 |

International Business Companies (“IBC”)

The overall product vulnerability for the financial services sector was rated as Medium with the International Business Companies rated as the Highest in terms of vulnerability.

Section 5 (1) of the International Business Act, 2016 (“IBC Act”) defines an IBC as a company incorporated or continued, or converted into a company, under the IBC Act 2016 and whose memorandum states that it is subject to the restrictions such as, but not limited to, carry on business in Seychelles.

Whilst IBC’s are perceived to carry higher risk, the WG has established that IBCs are being subjected to stringent regulatory and supervisory framework whereby IBCs are required to maintain basic company information within the jurisdiction such as ;

1. Directorship information where IBCs are required to keep a Register of Director or other officer at the Registered Office in Seychelles and filing for registration to the Registrar a copy of its Register of Director. In cases of non-compliance the Registrar may impose financial sanctions on the IBC;
2. Legal ownership information where IBCs are required to keep a Register of Shareholders at the Registered Office in Seychelles. In cases of non-compliance the Registrar may impose financial sanctions on the IBC; and
3. Beneficial Ownership information where IBCs are required to keep a Register of Beneficial Owners at the Registered Office in Seychelles. In cases of non-compliance the Registrar may impose financial sanctions on the IBC.

In addition to the basic company information;

4. IBCs are required to keep Accounting Records and in the event it is not being kept in Seychelles IBCs are required to keep a notification of where the Accounting records are being maintained. In cases of non-compliance the registrar may impose financial sanctions on the IBC;
5. Since March 2015, CSPs are required to monitor compliance by specified entities and foundations, with certain “record-keeping requirements” and to periodically inform the FSA of any “continued non-compliance” by the specified entity. In cases of non-compliance the registrar may impose financial sanctions on the IBC.

Depicted hereunder are notable changes made to the legal framework of the IBC Act;

Notable changes to IBC Act



Through the risk assessment, the WG identified that the key vulnerability arising from the use of IBCs are:

1. Use of agents or other professional intermediaries to deliver products
2. Possible misuse of nominee services

The use of agent or professional intermediary

In business dealings of CSPs, which involve mediation through Professional Intermediary (“PI”) or resellers clients, it is expected that such parties be subjected to Client Due Diligence measures to allow a CSPs to determine whether reliance should be placed on these PI. Reliance

is permissible only if the requirement of regulation 12 of the AML regulation is met in its entirety.

Findings

From the results of the survey, revealed that;

1. 93% of the CSPs conduct business through PIs and /or reseller clients and most CSPs have indicated thorough the survey that business undertaken through PIs is being conducted in accordance with the provision of regulation 12 of the AML Regulations;
2. Although reliance for the conduct of CDD measures is permissible under regulation 12 of the AML Regulations an increasing number of CSPs are opting to require for all company information to be maintained within the jurisdiction
3. There are certain misconceptions by CSPs in regards to when reliance can be placed on a PI's for the conduct of Client Due Diligence measures. This assumption has been made due to certain inconsistencies in the survey responses and findings from on-site inspections undertaken by both the FSA and the FIU.

Additionally there is the added criticism that although the law places the responsibility on the reporting entity to make sure that the information is being kept by the 3rd party such information is not immediately made available in Seychelles where there is an on-going investigation

Possible misuse of nominee services:

The practice of nominee shareholders and nominee directors may be perceived as being one of the greatest contributors to a company's vulnerability of being misused as it may increase difficulty in identifying those who exercise de facto control

In an effort to mitigate the perceived risks of nominee services Seychelles has through the enactment of the IBC Act 2016, introduced measures and obligations, requiring every IBC to keep at its registered office (the office of its registered agent) a register to be known as the register of beneficial owner which would include certain particular details of the individual as prescribed under section 356(1) of the IBC Act, 2016. Section 356(1)(b) of the IBC Act 2016, requires the Register of Beneficial Owners to include "particulars of each beneficial owner's beneficial interest and how it is held.

Compliance with this provision necessitates disclosure of any shares in the company held by the beneficial owner directly or through a nominee. If the latter applies, disclosure of the member holding shares on behalf of the beneficial owner must be made in the Register of Beneficial Owners. As such in cases that shares of a company are being held directly or

indirectly on behalf of a person which qualify of being a beneficial owner of the company, such details would be records in the register of beneficial owner and for consistency purposes it should reflect entry recorded in the register of shareholders (being legal owners of the share).

As such any person being a nominee shareholder would be easily identified in view its name would be recorded in the Register of Beneficial owner as a person holding shares/interest in the company on behalf of another person considered as the beneficial owner of such shares.

In respect to the concept of nominee director Paragraph 21.9 of the code of practice of licensee specified that any individual who enters into an agreement with a CSP to provide directorship services to specified entities to which the CSP provides registered agent services be referred to as a Professional Officer. It is required that CSP's ensure that individuals acting as directors of specified entities be aware and understand his duties, responsibilities and liabilities as directors under all relevant laws.

It is important to note that the director of a company, in line with section 132 of the IBC Act 2016, may delegate one or more of its powers to any other person except for certain specific powers, which cannot be delegated under this section. In case where the board has delegated its power to any other person, the board remains responsible for the exercise of the power by the delegate as if the power has been exercised by itself. As such the concept of nominee directors does not exists per se, in view that the director remains responsible for ensuring compliance by the company in respect to any obligation or duty that is placed on a company or what it is authorized to do.

Additionally, CSP's are required to provide to the Authority on an annual basis statistical information relating to the number of Professional Officers it has entered into an agreement with and the number of specified entities that each Professional Officer is acting as Director.

However, in view of the internationally perceived risk relating to such practice, the FIU and FSA should enhance the supervisory oversight over the provision of directorship services provided by CSPs and professional officers to ensure that they understand the nature of the business which will allow it to identify, assess, understand and manage risks associated with provision of nominee services.

Companies (Special License)

Companies (Special Licenses), commonly referred to as CSLs, are companies incorporated or continued under the Companies Ordinance, 1972 read with the CSL Act. One of the main differences between a CSL and a normal domestic company (non-CSL) is that a CSL is taxed on its worldwide income at a business tax rate of 1.5%. As a general practice, CSLs are not permitted to derive income from Seychelles' residents.

CSLs are required to have a secretary in Seychelles and the secretary must be a CSP which is required to perform CDD on CSLs.

Through Seychelles’ commitment to comply with the Base Erosion and Profit Shifting (BEPS) standard of the OECD, the CSL regime will have to be amended or abolished to bring it in line with BEPS.

Furthermore, the BEPS standard provides that, any income derived from assets or activities introduced in the CSL after the publication of the BEPS Report (i.e. 16th October, 2017) will not benefit with the preferential tax rates under Schedule 2 of the Act (i.e. 1.5% business tax rate and 0% Withholding tax rates). CSLs incorporated on or after 16th October, 2017 will only benefit the preferential tax rates under Schedule 2 of the Act up to the date the CSL Act is amended to cater for BEPS, which will not be later than June 2018.

The module analysis of all the variables discuss above, in order of priority is illustrated per Table 9 hereunder:

Table 9

| 1. GENERAL INPUT VARIABLES | Priority Rating |
|--|------------------------|
| AML Knowledge of Business / Profession staff | 1 |
| Availability and Enforcement of administrative sanctions | 2 |
| Effectiveness of Supervision / Oversight activities | 3 |
| Availability and Enforcement of criminal sanctions | 4 |
| Effectiveness of compliance function (Organization) | 5 |
| Integrity of Business / Profession staff | 6 |
| Effectiveness of Suspicious Activity Monitoring and reporting | 7 |

1.2.2 Overview of risk mitigating mechanisms

The assessment recognized that given the nature of services provided by a CSP, the potential use of vehicles provided by CSPs with criminals seeking to conceal the origins of criminal funds or move criminal proceeds overseas is high. Therefore, having adequate understanding of the regulatory/ legislative framework and relevant indicators of potential misuse of corporate structure (e.g. to facilitate money laundering or terrorist financing) are crucial preventative measures which CSPs can take to manage and mitigate the risks exposure.

Additionally, it has been established through this NRA that the FSA has very high entry control requirements and regulatory oversight of CSPs given that no person can undertake regulated activities unless it has been licensed by the FSA to provide a range of services. Both the FSA and the FIU, conducts regular inspections to ensure that the CSPs are in compliance with the Laws and Regulations including the CDD/KYC obligations.

For CSPs that provide nominee services the FSA conducts regular visits to establish whether CSPs hold on their records the required information/ documents to ascertain the ownership structure of the company including the ultimate beneficial owner. Presently the FSA is in consultation with stakeholder to have a regulatory framework which will license and regulate professional officers (i.e. individuals not employed by CSPs, providing solely directorship services to specified entities) based in Seychelles.

With the aim to further strengthen the regulatory framework and ensuring that relevant information is maintained within the jurisdiction, the new International Business Companies Act, 2016⁷⁰ has introduced new obligation on IBCs to;

1. file with the Registrar (FSA) for registration a copy of its register of directors;
2. Keeping of Register of Beneficial Owners at the registered office in Seychelles.

As such the newly introduced obligation on IBCs makes the structures more transparent.

As the Registrar and Regulatory Authority of non- banking financial services in Seychelles, the FSA, maintains Registers of all products registered and/or incorporated.

However, despite having mechanisms and frameworks to deter individuals targeting Seychelles entities as a means to launder money, current international investigations and press releases have revealed that Seychelles corporate vehicles are being used for illicit purposes. As such in its effort to increase transparency of the jurisdiction, Seychelles has signed the Foreign Account Tax Compliance Act (FATCA)⁷¹ and the Convention on Mutual Administrative Assistance in Tax Matters (the MAC)⁷² on Automatic Exchange of Information⁷³.

1.2.3 Overview of Offshore Sector Threats

Regardless of the known global threat of corporate vehicles being formed and used to facilitate money laundering activities, CSPs continues to have limited knowledge of and interaction with corporate structures which they assist with its formation and serves as a registered agent. As

⁷⁰<http://www.seyii.org/sc/legislation/act/2016/15>

⁷¹ FATCA was enacted in 2010 by Congress to target non-compliance by U.S. taxpayers using foreign accounts. FATCA requires foreign financial institutions (FFIs) to report to the IRS information about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. Seychelles had the Intergovernmental Agreement in place by 30 June 2014
<https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>

⁷²https://en.wikipedia.org/wiki/Convention_on_Mutual_Administrative_Assistance_in_Tax_Matters

⁷³<https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/guidance/Seychelles-Guidance.pdf>

such based on the limited knowledge, the following money laundering risks are perceived to be present within sector:

1. In view that certain CSPs do not have sufficient information relating to the company's business transaction, persons may attempt to abuse or misuse the system to launder the proceeds of crime and may remain unidentified or unknown by the CSPs;
2. Creation of complex corporate structures for money laundering which will conceal the identities of those involved in illicit activities;
3. Misuse of corporate structures to commit fraudulent activities or evade tax remains a high risk for international financial services centers;
4. Negligent or complicit of certain CSP facilitating money laundering;
5. Misuse of nominee services; and
6. CSPs relying on third party to undertake CDD measures, has limited knowledge and information of such business relationship and transaction to ensure compliance with the obligation under the AML Act.

Overview of AML controls in place for the CSP Sector

Whilst the assessment has exposed certain deficiencies in the AML framework, most notably it has also revealed that generally the quality of AML control for the sector is high. The key control measures to mitigate ML/TF Risk identified are;

1. CSPs are subject to a licensing regime from the FSA and supervisory inspections from both FSA and FIU;
2. All directors, members of managerial staff (i.e. persons holding significant duties and responsibilities) and compliance officers must be determined fit and proper by the FSA prior to being appointed, based on prescribed criteria under the ICSP Act;
3. In line with the FATF recommendation CSPs are subject to AML obligations to conduct CDD, enhance CDD, on-going monitoring and enhance on-going monitoring on its clients and are required to maintain records of information relating to directors, shareholders and beneficial owners' information;
4. Both the FSA and FIU are empowered to inspect the premises and business including the procedures, systems and controls; and records maintained by CSPs in respect to its regulated activities;
5. Both the FSA and FIU have the power to impose sanctions on CSPs in cases of non-compliance either administrative or criminal sanctions, as the case may be;
6. CSPs as reporting entities under the AML are required to make a Suspicious Transaction Report to the FIU in cases where it has knowledge or reasonable grounds to suspect that any transaction or attempted transactions may be related to the commission of an offence of money laundering;

7. Dissemination by Competent Authority of information to CSPs on the requirement to conduct on-going screening of their customers against UN list of terrorist, terrorist organization and other designated entities; and
8. The regulatory authorities have the ability to share information between local and non-domestic agencies where Seychelles is also a signatory to FATCA and MAC on Automatic Exchange of Information.

Summary of proposed Actions and Recommendations

In view that the vulnerability and threat of the overall ML risk for Seychelles CSP's is considered to be **Medium High** and that the nature of the CSP business is prone to misuse by individuals for illegitimate purposes, the NRA assessment has exposed some critical points of concern which requires actions by the regulators, and further discussion between the FSA and the industry. The list of recommendations for the sector can be found in Annex 1, whilst the proposed Action Plan is contained in Annex 2.

1.3 MONEY LAUNDERING RISK AT BANKING

The financial sector contributes approximately 5percent to the Gross Domestic Product (GDP) of the Seychelles. This in turn is dominated by the banking sector which is far the biggest sub-component of the financial sector. Moreover, the majority of financial transactions happen through the financial sector. It is with this in mind that an evaluation of the threat and vulnerability of the banking sector was conducted as part of the National Risk Assessment (NRA).

The working group for assessing the banking module consisted of individuals working within the regulators (Central Bank (CBS) and Financial Intelligence Unit (FIU)) and also the private

sector (mostly commercial Banks). It is to be noted, that participation was low and most of the work had to be conducted by CBS and to some extent the FIU.

The methodology included using information from various sources to come to a conclusion on the various anti-money laundering (AML) and counter-financing of terrorism (CFT)⁷⁴ risks facing the banking sector. These included information from regulators such as CBS and FIU, as well as discussions with relevant officials from commercial banks.

Analysis was conducted on the following areas:

- Comprehensiveness of AML Legal Framework
- Compliance with revised Principle 29 of the Basel Core Principles for Effective Banking Supervision (BCP) - *Abuse of financial services*
- Effectiveness of supervision procedures and practices
- Availability and enforcement of administrative sanctions
- Availability of enforcement of criminal sanctions
- Availability and effectiveness of entry controls
- Integrity of bank staff
- AML knowledge of bank's staff
- Effectiveness of compliance function (organization)
- Effectiveness of suspicious activity monitoring and reporting
- Level of market pressure to meet AML standards
- Availability and access to beneficial ownership information
- Availability of reliable identification infrastructure

The analysis focused on these key areas and observed current practices or legislations in these areas. Moreover, notable deficiencies were identified and possible remedies proposed.

1.3.1 Banking Sector in Seychelles

Banks are governed by the Financial Institutions Act 2004, as amended (FIA) and associated pronouncements and regulations issued there under. Banks, like other reporting institutions, are also required to adhere to the AML and CFT laws, administered by the FIU. The Financial Surveillance Division (FSD)⁷⁵ of CBS regulates and supervises banks as part of one of CBS' objectives; to promote the soundness of the financial system.

⁷⁴ Throughout this section, reference to AML or CFT individually, is meant to encompass both collectively, unless expressly cited that the interpretation ought to refer to only one of these two components.

⁷⁵ This was formerly known as the Financial Services Supervision Division, which was re-structured in May 2017 and renamed as the Financial Surveillance Division.

As at August 2016, the banking sector in Seychelles consisted of nine banks⁷⁶ engaged in domestic and off-shore business. Seven of these are international banks, with only two of the latter engaging in offshore services. The other remaining two banks (from the total of nine) are domestic banks.

Banks in Seychelles operate under a single licensing regime, whereby they can conduct both onshore and international banking services. The regime became effective with amendments to the FIA promulgated in 2011, which eliminated the requirement for a separate banking license to conduct solely offshore banking business.

As at the end of 2015, audited figures for total assets, total liabilities and the capital base stood at USD 1.26 billion, USD 1.13 million and USD 0.13billion respectively⁷⁷. Total profit for the banking sector mounted to USD 33 million for 2015. Banks in Seychelles undertake traditional banking activities, namely in deposit taking and lending as well as related activities such as foreign exchange business.

As pointed out above, the financial sector contributes 5 per cent of the country’s GDP. With the aim of maximizing the contribution of the financial sector to Seychelles’ economy, a Financial Sector Development Implementation Plan⁷⁸ (FSDIP) has been approved by Government and is being pursued. This includes a number of initiatives aimed at modernizing and further developing the financial sector, taking into account international best practices. In addition to development initiatives, there has also been increased focus on international compliance at a national level. The NRA is a representation of one such initiative.

The assessment rating of the variables analyzed in the banking sector can be seen at a glance in Table 10(overleaf).

Table 10: Summary of banking sector analysis

| World Bank National Risk Assessment Methodology Anti Money Laundering and Combating Terrorist Financing | | |
|--|--|--------|
| Institutional Assessment of General Environment | | |
| 1 | Comprehensiveness of AML Legal Framework | High |
| 2 | Availability and enforcement of criminal sanctions | Medium |

⁷⁶ Barclays Bank Seychelles (LTD), Mauritius Commercial Bank (Seychelles) LTD, Bank of Baroda, Habib Bank Limited, Seychelles International Mercantile Banking Corporation (Nouvobanq), Seychelles Commercial Bank, Al Salam Bank Seychelles Ltd, Bank of Ceylon and Bank Al Habib Ltd.

⁷⁷ The applicable exchange rate used for the conversion as at December 2015 was SCR13.31 to USD1.

⁷⁸ <https://www.firstinitiative.org/node/716>

| | | |
|----|---|------------|
| 3 | Level of market pressure to meet AML standards | High |
| 4 | Availability and effectiveness of entry controls | High |
| 5 | Effectiveness of supervision procedures and practices | Medium-Low |
| 6 | Availability and enforcement of administrative sanctions | Low |
| 7 | Integrity of banks' staff | Low |
| 8 | AML knowledge of banks' staff | Medium-Low |
| 9 | Effectiveness of compliance systems | Very-Low |
| 10 | Effectiveness of suspicious activity monitoring and reporting | Medium |
| 11 | Availability and access to beneficial ownership information | Medium |
| 12 | Availability of reliable identification infrastructure | Very High |

Rating scale:

| | | | | | | | | | | |
|-----------|--------------------|-----------|------|-------------|--------|------------|-----|----------|------------------|----------------|
| Excellent | Close to Excellent | Very High | High | Medium High | Medium | Medium Low | Low | Very Low | Close to Nothing | Does not Exist |
| 1.0 | 0.9 | 0.8 | 0.7 | 0.6 | 0.5 | 0.4 | 0.3 | 0.2 | 0.1 | 0.0 |

1.3.2 Comprehensiveness of AML Legal Framework

To combat against ML/FT, a country needs to have comprehensive laws and regulations regarding AML/CFT preventive measures and AML/CFT supervision of the banking sector. Financial institutions (FIs) operating in Seychelles are required to put in place robust controls to detect and deter the flow of illicit funds through its financial system. A review of the existing laws and regulations in place in Seychelles, shows that these are mostly in line with the requirements of the Financial Action Task Force (FATF), specifically the Anti-Money Laundering Act, 2006 (AMLA).

1.3.3 Compliance with international standards

Seychelles has comprehensive AML/CFT laws which apply to the banking sector and these consist of the AMLA and the Anti-Money Laundering Regulations, 2012 (AMLR), issued there under. The conformity of these with international standards for different procedures as follows:

1. **Customer Due Diligence (CDD):** CDD obligations and measures are clearly provisioned for in the AMLA. Moreover, the AMLR provides for a specific CDD definition at regulation 3 and application at regulation 8. Collectively, these are in line with FATF requirements.

2. **Record keeping:** The FATF recommendations require records to be maintained for a minimum of 5 years. Section 6 of the AMLA requires that records must be retained for 7 years, which thus surpasses the required standard.
3. **Enhanced Due Diligence (EDD) for Politically Exposed Persons (PEPs) and high-risk countries:** As per Regulation 15 of the AMLR, EDD measures are to be applied on a risk-sensitive basis. In terms of PEPs, the definition and diligence requirements are also clearly defined under Regulation 13 of the AMLR.
4. **Customer Due Diligence (CDD) for correspondent banking:** Regulation 14 of the AMLR is in line with FATF standards for recommendation 13 and 14.
5. **Reliance on CDD by third parties:** Regulation 12 of the AMLR is in line with FATF recommendation 17.
6. **Suspicious transaction reporting (STR):** Section 10 of the AMLA clearly provisions for the STR definitions and reporting obligations. The Guidelines also incorporate the applicable STR forms which need to be completed by the respective FIs and the Designated Non-Financial Businesses and Professions (DNFBPs).
7. **Licensing:** Regulation 2 of the AMLR is in line with FATF standards for recommendation 26.
8. **Tipping-off and confidentiality:** Section 12 of the AMLA meets FATF standards.
9. **Internal controls, foreign branches, and subsidiaries:** Section 15(a) to (e) of the AMLA clearly designates a Compliance and Reporting Officer (CRO) to oversee the internal controls, policy and procedural requirements of FATF recommendation 18.
10. **Regulation and supervision of FIs:** Reference is made mainly to the AMLA (see table appended to Section 16 – reference to powers and duties of the FIU regarding reporting entities) and sections 21, 42 and 53 of the FIA.
11. **Supervisory powers:** Part 2 of the AMLA provides the objectives of the FIU. However, FIU's administrative powers are covered by the FIA, as administered by the CBS.

1.3.3.1 Compliance with revised Basel Core Principles (BCP) (Principles 1, 2, 3, 4, 5, 9, 11, 13, 25, 26, and 29)

An evaluation against Criterion 29 was conducted and the jurisdiction was deemed non-compliant.

1.3.3.2 Deficiencies

As can be observed, the legislative framework is more or less in line with the FATF recommendations. However, there has not been a comprehensive review of the jurisdiction's

adherence to the BCPs, except for core principle 29 which resulted in a rating of materially non-compliant. This is in regards to CBS not publishing the Anti-Money Laundering Act, regulations and guidelines on its web site. Additionally, CBS had not used all its off-site and on-site supervisory tools to oversee the risk management of banks ML/TF risk.

Based on the assessment criteria and collected information/data this variable was rated **High**.

1.3.4 Effectiveness of Supervision Procedures and Practices

In order to address and mitigate constant emerging financial risk, an effective supervisory regime needs to be comprehensive in its legal and regulatory framework, which is supported by appropriate powers and is well resourced, and employs a risk-based approach to on-site/off-site monitoring and inspection. Additionally, banking supervision needs to be able to effectively develop, implement, monitor and enforce supervisory policies under normal and stressed economic and financial conditions.

The effectiveness of supervision procedures and practices is clearly identified in Seychelles laws and regulations which have appropriate authority and mandate to conduct AML compliance supervision. Comprehensive supervisory activities are carried out by the FIU and its functions are governed by the AMLA which communicates its legal framework. As per the AMLA, the FIU is tasked with the responsibility for monitoring and ensuring that all reporting entities, that is, financial institutions and DNFBPs comply with the legal requirements.

With regards to its supervision policies and procedures, it is to note that FIU has in place a set of questionnaires (Annex 13) designed to suit ML risks inherited by the different sectors. The FIU has to execute the assignments in a manner that is consistent with the ML rules and regulations in ensuring that the entities including FIs understand and comply with their obligations as described under the Act and guidelines issued to them in June 2015.

The approach taken by supervisory authorities is upon inspection of FIs to conduct interviews and discussions with the Branch Manager and CRO, in order to gather information on the current practices of the bank and its future plans in respect to AML. Additionally, sample testing techniques are used to ascertain the bank's degree of adherence to its own internal policies and guidelines as well as compliance to CBS' circulars, laws and regulations. This is undertaken as part of a three year cycle. However, if there are any high risk events triggered in the management and operations of the FI, immediate action is taken accordingly. An on-site examination will be performed on a full scope, targeted, focused approach and spot reviews. The general findings of the examination are compiled and presented as part of the consultative process for policy purposes.

A work plan is formulated annually which contextualizes the reporting entities needs and seeks to maximize the efficient use of resources having regard to the skills matrix of the current FIU examiners. The activities are based on an understanding of the significant ML risks to which the reporting entities are exposed. The plan therefore covers a combination of inspections and

outreach programmes to sensitize the reporting entities of their AML/CFT obligations. The examination plan is thereafter amended according to risks identified and priority actions.

The Director of the FIU has the power to appoint examiners as and when an examination is warranted. There are no requirements to give any advance notice of an examination, in writing or otherwise. However, for banking sector, the only requirement is to go during business hours (except in a case of immediate urgency). The specific powers of FIU during an examination are set out in Section 16C (1) of the AMLA which provides that authority to take any person and/or any equipment considered necessary and to access and examine any computer/data system. There is a positive obligation on reporting entities who are being examined to give “all reasonable assistance” and to furnish the FIU examiners with “any information that they may reasonably require” (Section 16C (2)).

The following consist of the core elements of FIU’s new risk-based supervising framework:

- ML/TF risk assessment of all reporting entities on the basis of self-assessment carried out by the Reporting Entities
- Real time reports (e.g. STRs, adverse media and reports from other competent authorities) used to determine inherent risks profile of all Reporting Entities.
- Off-site risks and a ML/TF examinations
- On-site examinations; and
- Monitoring.

With regards to supervisors possessing a good understanding and appreciation of the ML risks within the sector, the supervisory body has through its various functions acquired extensive understanding and appreciation of the ML risks, namely by: receiving, analyzing and disseminating of reports; and, collecting data from government institutions or any other countries. This also includes conducting AML/CFT supervision of the different reporting entities, and undertaking self-risk assessment.

Based on the present resource capacity, it is evident that more staff are needed to efficiently undertake the supervisory function. Whilst familiar with the AML legislation, examiners require specialist training on risk based supervision and on-site inspections and product specific to AML. It is to be noted that staff are recruited with diverse background from well-known sectors such as banking, Corporate Service Providers (CSPs), revenue commission and other areas possessing the relevant skills and knowledge.

The risk-based supervisory programme is in the process of being implemented. It is to note that the on-site staff of the Financial Surveillance Division (FSD) have just recently performed a limited-scope examination pertaining to AML/CFT on banks. However, off-site data is very limited. Additionally, these inspections are being conducted in conjunction with FIU. FSD

supervisors adhere to the CAMELS model⁷⁹ to perform on-site and off-site inspections which are performed on a risk-based approach (RBA) basis. Analysis of the operational risk of FIs, which falls under management of the CAMELS model, will take into account ML/FT risk components that may exist.

The working group also takes note that due to resource constraints, the FIU performed only two ML/FT inspections on banks in 2014 and 2015. However, in 2016 there were 4 inspections as per Annex 14. Following the setup of FIU's Regulatory Inspection Unit in December 2015 and an increase in resource capacity, the FIU was able to prioritize their inspections. Seven banks are currently subject to on-going on-site and off-site examinations. FIU adopts a risk-based supervisory regime for ML/FT. Supervisory activities are targeted on 10 components which are assigned with individual ratings and guide the appropriate action that is allocated to the banks on a proportional basis, commensurate to the risk level.

1.3.4.1 Deficiencies

The following deficiencies were observed relating to the effectiveness of supervisory procedures and practices;

CBS and FIU regulators require an enhanced training program to undertake AML audit, as well as specialist training on risk-based supervision and on-site inspection. It should be noted that regulators still lack experience in this field.

In view of the recent move to adopt a comprehensive risk-based approach to AML/CFT supervision there is still a need for capacity building for both CBS and FIU examiners. More specifically examiners require an enhanced understanding of the RBS approach which will allow more effective and focused supervision. Additionally, staff would be required to build on their existing knowledge and knowhow on best practices adopted internationally whilst enhancing their examination techniques.

Whilst, the number of examiners undertaking AML risk examination has increased steadily in the past few years, they still lack experience and knowledge to effectively identify AML risk. To this end significant resource has to be allocated in the near future to address this issue.

With regards to off-site submission of information by supervised entities, this is still very much deficient. In view of this, it is difficult to effectively implement the RBS approach as examiners lack the information and tools to undertake a risk profile of supervised institutions.

Whilst the FIU has policies, procedures and manuals as part of the supervisory framework, there is an urgent need to update these such that it reflect the latest development and emerging risk. On the other hand CBS is still developing its AML/CFT examination manuals and incorporating a risk rating within its operational risk framework. This is in view that CBS only

⁷⁹https://www.researchgate.net/publication/283854804_CAMELS'_ANALYSIS_IN_BANKING_INDUSTRY

started AML supervision in 2015. Prior to that, AML supervision was solely the purview of the FIU.

It is also observed that despite closer coordination and co-operation between the CBS and FIU, there still remains a supervisory gap which needs to be addressed urgently. It is observed that CBS and FIU are conducting joint examinations; however, it is still not clear how the co-ordination between the two agencies operates, how information is shared and actions taken against institutions nor is the coordination clear as part of the development of the supervisory framework. In view of the above information CBS and FIU have to develop a clear framework for supervising entities in the purview of both institutions.

It is observed that over the past one year the regulators have intensified their on-site examinations of supervised entities. Nonetheless, prior to that there was a significant deficiency in on-site examinations conducted. For example from 2006 to 2014, there were only 9 examination conducted. This may have been due to a lack of resources.

Based on the assessment criteria and collected information/data this variable was rated **Medium Low**.

1.3.5 Availability and Enforcement of Administrative Sanctions

The importance of the availability and enforcement of administrative sanction, as a component of supervisory action, is to further strengthen supervisory powers against FIs for non-compliance. The more the sanctions are effective, proportionate, and dissuasive, the more likely it is that management and staff members will comply with AML laws and obligations.

With regards to imposing sanctions on FIs for non-compliance with AML obligations, it has been observed that the AML Act does not contain administrative sanctions but makes reference only to criminal sanctions. It is to note that as per section 34(b) of the FIA⁸⁰, FIs must ensure that adequate measures to prevent money laundering and terrorist financing are adopted and implemented according to the law in order to maintain an appropriate AML control framework. To note, the administrative sanctions available for CBS to enforce are limited, as it does not contain monetary penalties. The administrative penalties imposed may include the removal of critical staff and withdrawal of bank licenses.

Generally, most individuals working in the banking sector believe that administrative action would be initiated in case of non-compliance with AML requirements. However, the working group takes note that individuals in the banking sector have never been prosecuted for non-compliance and not much emphasis is placed on prosecution.

⁸⁰<http://greybook.seyili.org/w/se/CAP79#!fragment//KGhhc2g6KGNodW5rxlVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xjYnLHNjcm9sbEPEiMSK0iFuXkd1YXLEh8SgxKLEpMSXxLT EtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk=>

1.3.5.1 Deficiencies

The following are deficiencies observed relating to the availability and enforcement of administrative sanctions.

As observed the AML Act does not have administrative sanctions, it has only criminal sanctions hence the FIU which has the primary mandate for AML/CFT regulation is unable to impose any administrative penalties on supervised entities. On the other hand CBS has ability to impose administrative sanctions as per section 34(b) 53 and 63 of the FIA. However this is limited to removal of only administrative staff such as the CEO. It does not include actions which may be taken against other members of staff. With regards to action that can be taken against institutions itself this is also limited. For example in worst case scenarios the regulator may revoke the license. In view that effective administrative sanction such as monetary penalties are not available to the regulators this can be a significant constraint to taking actions against individuals or institutions in contravention of the law and also does not act as a deterrent.

From statistics received no administrative sanctions have ever been taken against any staff or entity for breach of AML laws or regulations. In view of this it may be argued that staff or supervised entities may feel that the regulators may not have adequate expertise to take action against them and hence promote some undesirable actions in respect to AML compliance.

Based on the assessment criteria and collected information/data this variable was rated **Low**.

1.3.6 Availability of enforcement action of criminal sanctions

Criminal sanctions are essential in cases of non-compliance with AML laws and regulations. This should include sanctions for serious and deliberate (or criminally negligent) breaches that can be ancillary to the money laundering offense. Sanctions should be applicable not only to FIs but also to their directors and senior management. Effective, proportionate, and dissuasive criminal sanctions, will encourage staff and management to be more cautious in complying with AML laws and obligations.

The AMLA caters for appropriate criminal sanctions to be in place for non-compliance with AML obligations, and for individuals in the banking industry to regard the criminal sanctions regime as sufficiently dissuasive to positively influence individual behaviour patterns. In the AMLA, criminal sanctions and enforcement actions against FIs are covered by various penalties and offences in the eventuality of contravention. These sections are stipulated under Part 6 'Offences and Penalties', Section 3 paragraph (1) (2) (3) and (4) 'Offence of Money-Laundering'. However, it is noted that to date, there are no existing records of successful convictions for criminal enforcement against members of the bank's management or employees.

1.3.6.1 Deficiencies

The AML legislations adequately provide for enforcement. However, there remain certain deficiencies, which are explained below.

The lack of action taken by regulators and enforcement agencies may be indicative of either:

- minimum instances of breach;
- a lack of expertise to effectively investigate and prosecute; or
- a lack of commitment on the part of regulators to pursue a case to the full extent of the law in view of potential reputational impact it may have on the institution and jurisdiction.

In terms of deficiencies, efforts must thus be made to ensure that supervisory and enforcement staff investigating ML breaches receive sufficient technical training to compile a criminal case.

On a further note, in many instances the cases are remediated before the issue can be brought to court.

Based on the assessment criteria and collected information/data this variable was rated **Medium**.

1.3.7 Availability and Effectiveness of Entry Controls

A country has effective entry controls if there is a comprehensive legal and regulatory framework, which provides authorities with appropriate powers, a sufficient level of trained staff, and other resources with which to carry out their duties. Effective entry controls help to reduce money laundering vulnerability and ensures a higher level of compliance.

The FIA make reference that a person shall not advertise for, or engage in banking business or foreign exchange business, as the case may be in Seychelles, without being issued a banking license by the Central Bank. As per sections 5 and 6 of the FIA, CBS processes applications for banking licenses. To note, there are trained staff who are skilled and competent to review applications, which includes analyzing business models; organizational structure; fit and proper status of the shareholders and administrators; risk management policies, procedures, and internal controls. Further to the FIA sections 5 and 6, it states that all the required documentation and information is to be submitted by the applicant. This will allow the regulators (CBS/FIU) to evaluate the risk posed. Nonetheless, there is a need to strengthen the law with regards to the various criteria the regulator should use when evaluating the applications, more specifically to the AML risk the entity may pose to the financial system.

Given that this is the first NRA assessment carried out in Seychelles, the results and findings of this exercise will be the method by which evaluation of whether or not there is a good understanding and appreciation for the ML risks within the banking sector takes place.

However, with the issue experienced with BMI⁸¹ such, has paved the way for more awareness on ML/FT and to take enhanced monitoring and measures.

Fit and proper evaluations are conducted on all shareholders and administrators of the applicant. Checks are also carried out within the group structure. This is done with the assistance of a number of domestic and international regulatory agencies. However, there is a need to strengthen the fit and proper framework; for example, the scope of coverage of key personnel needs to be expanded.

In regards to having appropriate educational and professional certification requirements for key directors and senior management, the current legislative requirement is somewhat lacking in this respect. It does not give the regulator enough power to require minimum professional and educational qualifications and some roles are also not subject to fit and proper status (e.g. Chief Financial Officer, Chief Operations Officer, and Head of Treasury).

1.3.7.1 Deficiencies

Whilst it is observed that there is a growing appreciation and understanding of what is the money laundering risk of the banking sector, it is clear that this is only recent, and hence, much more work needs to be done in this regard. As mentioned previously, staff processing license applications will need to enhance their knowledge in understanding AML risk.

From observations made, section six of FIA needs to be strengthened such that greater consideration is given to the potential AML risk that an applicant may bring to the financial system.

Whilst there exists a comprehensive framework for licensing, there is scope to enhance the fit and proper framework. For example the current framework applies only to the shareholders, CEO, and Board of Directors. This is deemed not sufficient as there are other key positions within the bank that require the staff to pass a fit and proper test. These include posts such as Deputy CEO, Finance Manager, Operations Manager, Compliance Officer, Internal Auditor, Head of Treasury, etc. Additionally it is observed that there is not enough focus on the appropriate educational and professional certification requirements in the fit and proper test.

Whilst the working group does acknowledge that there is generally a shortage of qualified professionals in the labour market, it is intended that a transition period is given as the CBS extends the fit and proper rule to other designated persons. The transition period will allow for the applicable training to be undertaken.

Based on the assessment criteria and collected information/data this variable was rated **High**.

⁸¹<http://www.seychellesnewsagency.com/articles/1750/Seychelles+Central+Bank+takes+control+of+beleaguere+d+%3Cb%3EBMIO%3C/b%3E+bank>

1.3.8 Integrity of Bank Staff

A financial institution needs a strong base of integrity in their employees. The successful operation of a financial company depends on the moral compass of those involved. The integrity of a bank staff is evaluated in cases as to whether staff acts in a wilfully blind manner or colludes with criminals or acts corruptly. It will also ensure that they do not become unwittingly involved with criminals that seek to use the bank's products including the staff's specialized knowledge and skills.

On-site inspection carried out by the FSSD, has revealed several deficiencies which further indicates that staff do not take the necessary measures when it comes to issues regarding AML/CFT. Nonetheless, observation made with regards to the incidence of integrity failure involving the bank staff is categorized as low. The evidence taken from the report on fraud and other economic crime disclosed by banks to FIU, shows that only six cases were officially reported against bank staff from 2011 to date. However, it also worth noting that there are numerous unreported cases involving breaches of conduct of bank staff. Such cases are either unreported or settled internally as banks may be concerned with the reputational, regulatory and legal risks associated with reporting incidents involving an AML breach. As such, banks prefer to take disciplinary action against their staff. This may include and is not limited to demoting staff, terminating staff with notice, and the acceptance of the staff's resignation.

1.3.8.1 Deficiencies

The following are deficiencies observed relating to the integrity of bank staff:

- Under-reporting by banks.
- Cases whereby bank staff lacks awareness on ML/TF or do not take cognizance with regards to ML/TF consequences, hence leading to collusion with corrupt individuals.

Based on the assessment criteria and collected information/data this variable was rated **Low**.

1.3.9 AML Knowledge of Bank's Staff

To identify, monitor and mitigate the existing risk associated with ML/FT, it is essential that bank's staff are knowledgeable of such risk, in order to effectively safeguard the institution and take timely action where necessary. Banks should also verify that staff being employed have integrity and are adequately skilled and possess the knowledge and expertise necessary to carry out their function, in particular where they are responsible for implementing AML/CFT controls.

In view of the above, it was observed that the required level of AML knowledge was not to the expected standard for the period between 2007 and 2009. It was observed that not all banks had a formal AML training program in place while in some AML training was focused more on compliance function and not necessarily on other support functions such as lending, operations, finance, and so forth. However, it is recognized that where a bank is governed by a

parent bank and has group standards in place, their AML policy and standards are adopted in full and their staff training becomes mandatory where staff acquires knowledge and understanding of the AML. In recent years the banks had proved that staff are now aware of the AML policies and procedures. This may be due to external pressure from correspondent banks. The CBS conducted a training on AML in 2004 and in November 2015, the FIU had conducted its AML/CFT sensitization program to all bank's CROs who are expected to train staff in their respected areas and this has served to increase staff awareness with this regard.

In regards to staff having adequate knowledge and regular update on domestic and transnational money laundering schemes and typologies, the working group opined that staff are made aware through trainings of some money laundering schemes known to them as red flags, including the misuse of the banks products and services. However, where AML system is in place this is ruled by the various typologies which are not made known to staff members in avoidance of the inherent risk that may implicate staff.

It is to note, that only staff working in selected functions, such as in front office account opening, are aware of the AML procedures in place; whereas, AML training should encompass all functions/departments within the bank. Outcome of FIU's examinations indicated that whilst some banks have adopted an internal report to be utilized by staff members wishing to report suspicious transactions to the CRO, other banks are yet to formalize same which is one area being looked at during the on-site inspections.

Staff members understand the legal consequences of AML compliance breaches; however, it is their perception that these will not be enforced, as historically there has not been any prosecution for non-compliance. To some extent the legal consequences of AML are covered in bank's training and that imparted by FIU to all banks' CRO's at the sensitization sessions. Moreover, staff understanding is measured during the on-site examination.

1.3.9.1 Deficiencies

The following are deficiencies observed relating to the AML knowledge of bank's staff:

- There is a lack of refresher trainings in place; resulting in staff becoming complacent with the procedures;
- Not all staff, irrespective of their roles, have undergone the AML trainings;
- Where bank's policy on training did not exist or were not consistently implemented staff had limited knowledge of the AML risks and were not familiar with the AML legislation and guidelines
- Staff are not well versed towards AML/CFT issues relating to cross border transactions.
- Most banks lack a dedicated MLRO/CRO

Based on the assessment criteria and collected information/data this variable was rated Medium Low.

1.3.10 Effectiveness of Compliance Function (Organization)

With growing regulatory demands, major financial institutions such as banks are devoting substantial resources to compliance functions. A compliance program helps institutions and their employees conduct operations and activities ethically, with the highest level of integrity, and in compliance with legal and regulatory requirements. Hence, such program aids in minimizing the risk of regulatory failure and the resultant sanctions and damage to FIs reputation.

1.3.10.1 Deficiencies

Currently there are significant differences among various banks with regards to having an effective compliance programme inclusive of monitoring transaction patterns. To note, not all bank have a fully-fledged dedicated compliance function. Whilst all banks have a monitoring transaction system there is still room for improvement in terms of calibrating the various parameters. Bank staff needs to enhance their knowledge with regards to enhanced transactions monitoring. Not all banks have fully adopted a risk based approach to AML compliance, particularly with regards to risk profiling and risk classifications.

Whilst some banks do have a MLRO/CRO, others appoint this role on to senior officers who already assumes other responsibilities, hence objecting the fundamentals of independency. As a result of this, serious lapses in reporting STR may occur, which can create conflict of interest. Additionally, where compliance function is available, it is not adequately resourced. The regulators could not observe any specific cases whereby banks have disciplined/taken actions against their staff in cases of AML breaches. If any such actions are taken these are not documented by the banks. The regulators have observed that very few banks conduct AML specific internal audit and thus far no banks conduct external AML audit.

Based on the assessment criteria and collected information/data this variable was rated **Very Low**.

1.3.11 Effectiveness of Suspicious Activity Monitoring and Reporting

Suspicious activity detection and monitoring at financial institutions should be a wide process that considers the entire customer relationship. Institutions of any size and complexity can achieve a strong, customer-focused suspicious activity monitoring function by thinking broadly when opening new accounts and monitoring existing accounts. A common oversight at many institutions often includes some of the bank's most basic products and services. Monitoring a customer's entire relationship can give bankers greater perspective on the legitimacy and legality of a customer's business and transactions. Proper monitoring and reporting processes are essential to ensure that the bank has an adequate and effective compliance program. This also includes having appropriate policies, procedures, and processes in place to monitor and identify unusual activity.

1.3.11.1 Deficiencies

Most banks have information systems in place that enable and facilitate the monitoring of transactions of clients against their profiles. However, there is room for improvement in calibrating the various parameters in the system. This could entail the process being more dynamic and risk based, in order to ensure that the latest emerging trends are featured within the system. Transactional records are available, however for some banks there is a lack of consistency in the quality of supporting documents provided to support AML related transactions.

There are various degrees of consistency across the banking sector in performing PEP screenings, as some banks have effective system whilst others are still implementing PEP monitoring framework. Additionally, there is room for improvement in enhancing staff knowledge to effectively use the system for PEP screening. The system in place, also allows the bank to identify and record complex and unusual large transactions, but regardless of this, staff are not effectively maximizing the potential of these systems. Moreover, with the lack of a MLRO/CRO, not all banks are effectively identifying and reporting suspicious activity.

Based on the assessment criteria and collected information/data this variable was rated **Medium**.

1.3.12 Level of Market Pressure to Meet AML Standards (Optional Criteria)

Cross-border correspondent relationships require banks to comply with international AML standards in order to maintain such relationships. Hence, most banks are facing pressure from their correspondent bank to ensure they are in adherence with international standards. This is in line with the emerging trend of correspondent bank de-risking in an environment of more stringent AML control. Banks with international affiliation are seen to be more sensitive to international AML regulation. Regulators have observed that banks have responded to international and national reputational risks by attempting to enhance AML related control.

1.3.12.1 Deficiencies

No major deficiencies noted.

Based on the assessment criteria and collected information/data this variable was rated **High**.

1.3.13 Availability and Access to Ultimate Beneficial Ownership (UBO) Information

Countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Information on the UBO and control of legal persons must be adequate and accurate, and such must be obtainable or accessible in a timely manner by competent authorities.

Most of the banks will request the relevant information from clients (account opening checklist and forms) to identify the UBO(s). Moreover, the banks also required the submission of a declaration of UBO. This will be substantiated with relevant incorporation documents. In some

cases, banks also require clients to provide a timely notification (within 30 days of submission) in the event of a change in the UBO information. Nonetheless, banks have no avenues to independently verify the accuracy of the information and documents submitted.

The above practice of requesting a UBO declaration is extended to all companies. Banks thus rely on this declaration.

At present, Section 356 to 360 of the IBC Act, 2016 (IBCA) provides that offshore companies; (International Business Companies) must maintain a UBO register. The UBO register can be made available, subject to reasonable notification period. According to Section 360(2) of the IBCA, written notice must be provided once a relevant change of UBO occurs.

Based on the assessment criteria and collected information/data, this variable was rated as **Medium**.

1.3.13.1 Deficiencies

The level of consistency in the approach taken by banks to ensure a UBO declaration remains a mandatory requirement during the on-boarding process.

1.3.13.2 Availability of reliable identification infrastructure

Financial transparency and customer identification and verification processes are enhanced when AML-regulated institutions are able to verify the identity of customers using reliable, independent source documents, data or information. A good identification infrastructure will also prevent the use of fake documents and false identities, which may obstruct the ability to detect and investigate money laundering and trace the proceeds of crime.

An independent and reliable information source available at the Central Bank is that of the Credit Information System (CIS). The CIS has proven to be a very useful tool for all regulated institutions as it aims to assist lending institutions in assessing the credit worthiness of a client thus promoting greater efficiency in credit allocation, hence providing useful background information on customers. The system also assists in the management of credit risk and pricing of credit according to clients' track record. It is to be noted, that Seychelles does not have any independent private credit bureaus/agencies.

Other relevant information required during the Know Your Customer (KYC) process performed by the bank, is to obtain the address details of the customer. Clients are generally required to provide their utility bill as a proof of address. It has been observed by regulators that most banks do not capture the full address details of the client and will opt only to use the P.O box address instead, which is not deemed to be adequate and useful in cases of physically contacting the client.

Based on the assessment criteria and collected information/data this variable was rated **Very High**.

Summary of proposed Actions and Recommendations

Based on the findings of the WG, a comprehensive list of recommendations has been provided at Annex 1. Further to this, a proposed action plan has been devised to curtail the deficiencies identified within the sector and is located in Annex 4.

1.4 MONEY LAUNDERING RISK AT DNFBP

1.4.1 Objectives

The objectives of the exercise were to assess the AML/CFT threats faced by the DNFBP sector within Seychelles.

DNFBPs consist of the following entities that the team considered as being most at risk of being utilized for money laundering purposes:

- 1. Casinos**
- 2. Motor Vehicle Dealers and Real Estate Agents**
- 3. Legal Practitioners**
- 4. Boat & Yacht Dealers**
- 5. Precious Metals and Stones Dealers**

The team handling DNFBPs comprised of individuals from both the private and public sector. The initial meeting was well attended but the subsequent meetings saw a minimum of about five people who continually attended the meetings.

1.4.2 The National Risk Assessment Process

1.4.2.1 Organization of the NRA Process

The NRA process commenced with a workshop facilitated by the World Bank. All stakeholders involved in the NRA were invited to participate and were divided into the appropriate groups which were led by Team Leaders. Depending on the requirements, the various teams met either weekly or fortnightly and decided on the mode of data collection.

1.4.2.2 Participants

The team handling DNFBPs comprised of a diverse group of individuals from both the private and public sector. They were selected as they were either engaged in the particular industry or were familiar with it.

The initial meetings were well attended but the subsequent meetings saw a minimum of only about five people who continually attended the meetings despite a letter being sent by the Minister of Finance requesting their presence in the event. Most of the participants from the private sector informed the Team Leader that because of work constraints they were unable to participate in the meetings which were held on a fortnightly basis.

This posed a lot of problems especially in the compilation of the data such that in the end, the Team Leader had to visit the various DNFBPs with a colleague to complete the questionnaire and collect the information.

1.4.2.3 Data

The Working Group met every fortnight over an eight month period since February 2016 and also liaised with National NRA Coordinator.

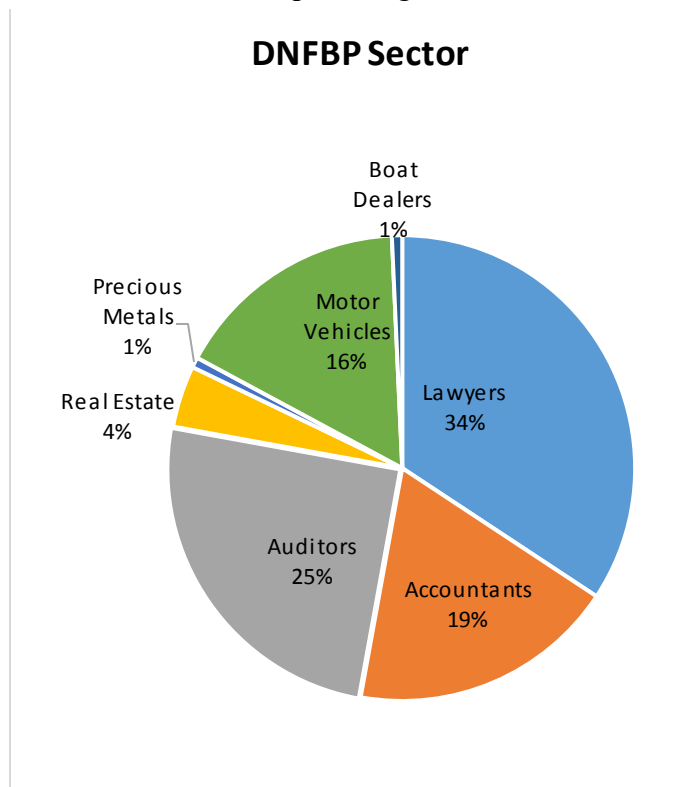
Most of the stakeholders in the DNFBP sector are from the private sector and the research process consisted mainly of questionnaires and on-site visits to obtain the required information. Some of the stakeholders took their time to respond to the questionnaire but some did not respond. The Team Leader eventually had to visit the remaining stakeholders to complete the questionnaire and obtain the information required.

The following agencies were selected for the NRA process and subsequently interviewed as part of the information gathering process:

- Motor Vehicle Dealers
- Casinos

- Accountants & Auditors
- Real Estate Agents
- Precious Metals & Stones Dealers
- Boats & Yachts Dealers
- Lawyers

The Pie Chart below illustrates the DNFBP sector percentage wise.



Pie Chart 1: DNFBP Sector

For future updates of the NRA, it is suggested that only serious and committed people be considered.

1.4.2.4 Domestic Perception

The domestic perception of the risk of money laundering within the DNFBP sector in Seychelles is medium high amongst some of the entities as most of the business activities are being conducted in cash. Motor Vehicle Dealers, Casinos and Real Estate Agents are considered as posing a higher money laundering risk.

Recognizing the risk in the Motor Vehicle sector, in his address before the National Assembly on 18 October 2016, the President of the Republic, Mr. Danny Faure, stated that “henceforth the condition for the registration and transfer of vehicle ownership requires proof of banking transaction from the account of the buyer of the vehicle to the account of the seller of the vehicle. This will apply similarly to land transactions; similarly to transactions of shares in companies. The measures target individuals who are using the system to launder ill-gotten

gains.”⁸²The Seychelles Licensing authority immediately started ensuring that the various Car Dealers complied with this. Examiners from the FIU have started conducting inspections to ensure that the Vehicle Dealers adhere to this new requirement and this will go towards reducing the risk of money laundering within this sector.

1.4.2.5 International Perception

Internationally, Seychelles is perceived as a high-risk jurisdiction in terms of its reputation as an offshore haven, and this is reflected in the higher levels of scrutiny on transactions involving Seychelles banks. International cases like the "Panama Papers"⁸³ and the "1 MDB"⁸⁴ case in Malaysia whereby the names of Seychelles IBC's have only solidified this perception despite the good work done by the regulators and supervisors.

1.4.2.6 Overall ML Risk Level as a function of ML Threat and ML Vulnerability

The overall threat of ML within the DNFBP sector has been assessed as **Medium High** while overall vulnerability to ML has been assessed as **Medium-High**. Accordingly the ML risk level in the country can be rated as **Medium-High** according to the below map.

ML risk level Map



The assessment has provided the basis for a clearer awareness and understanding of the ML risk factors specific to Seychelles including potential threats and vulnerabilities. Additionally it has allowed a range of relevant stakeholders to identify the measures required to comply with

⁸²http://www.statehouse.gov.sc/speeches.php?news_id=3197

⁸³<http://www.seychellesnewsagency.com/articles/4928/Panama+Papers+Seychelles%27+authorities+%27concerned%2C%27+plan+to+investigate+allegations+of+IBC+misconduct>

⁸⁴<http://www.seychellesnewsagency.com/articles/5612/Seychelles+financial+authorities+find+no+funds+or+assets+links+in+MDB+probe>

<http://www.nation.sc/article.html?id=250312>

the substantive standards. The assessment results should encourage a proactive approach to designing measures to mitigate the identified risks.

1.4.3 Money Laundering Threat at National Level

Motor Car Dealers are seen to pose a higher risk on money laundering as criminals invest their ill-gotten gains in such type of assets notably in Car Hire companies. This can be substantiated by the seizure of 20 cars from two Car Hire Companies belonging to two individuals suspected of engaging in criminal activities⁸⁵.

As indicated above, the pronouncement by the President that future purchases of cars must be made either by Bank Transfers or payment by cheques will go towards reducing the money laundering threat. The Seychelles Licensing authority immediately started ensuring that the various Car Dealers complied with this requirement but no legislation has been enacted to enforce the pronouncement made. Examiners from the FIU have conducted inspections of two motor vehicle dealers to ensure adherence to the requirements of the AML Act notably information ascertaining the origin of the source of the funds. Criminals usually invest in motor vehicles, some of which can be placed in the names of relatives and friends with payments being made in cash. With the seizure of 12 cars by the FIU in 2016⁸⁶ and an additional 8 cars in early 2017, the criminal fraternity was shocked and now avoids investing their illegal proceeds in such assets as then can be the subject of a seizure by the FIU.

As regards money laundering within the Real Estate sector, purchases were also sometimes made in cash for foreigners by Seychellois who act as nominee Directors. After a period of time, the Seychellois Directors resign and the company which is owned by foreigners is the owner of the property without having sought prior approval of MLUH as is required. Suspected drug traffickers may also purchase assets and place them in the name of relatives and other people.

Senior staff in sectors such as Casinos, Real Estate, Accountants, Auditors, Lawyers and Motor Vehicle Dealers has been exposed to training on AML by the FIU to help them to better understand their statutory duties under the AML Act as well as be able to identify money laundering schemes and threats in their respective sectors. This plus the ongoing inspection program by examiners from both the FSA and FIU will ensure that the risk of ML is mitigated.

Boat and Yacht dealers provide an avenue for criminals wishing to launder their illegal funds and as such, this activity is considered as high risk.

⁸⁵http://www.seychellesfiu.sc/#tab_media

⁸⁶<http://www.seychellesnewsagency.com/articles/5393/Seychelles+seizes+%2C+in+assets+in+first-time+operation>

http://www.seychellesfiu.sc/#tab_media

The sectors most at risk of money laundering are in the Casinos and Motor Vehicles sector. Motor Vehicles as indicated above poses the greatest risk whilst Casinos now with the emergence of Junkets will also pose a problem.

The main source of funds from criminal activity in Seychelles is from drugs coming into the country from Kenya, Madagascar, India, Pakistan and Afghanistan. Some of the funds from this activity have been invested in Car Hire companies as exemplified in the Alphonse and Onezime⁸⁷ cases whereby the FIU seized a total of 20 cars. Some of the proceeds are also invested in Real Estate as seen in the Alphonse case.

1.4.4 Money Laundering Vulnerability at National Level

The overall ML vulnerability in the DNFBP sector can be rated as **Medium High** (MH) due to deficiencies in the different sectors below. Details of the assessments can be found at Annex 15. Casinos, Motor Vehicle Dealers, Real Estate and Boat/Yacht dealers pose the greatest vulnerability as they all deal in cash. On-site examinations have revealed that these sectors lack strong AML procedures. However, officials from the FIU and SLA have met with representatives of Car Dealers and discussed ways to mitigate the risk of cash within this sector. The FSA who is the regulator of the Casino sector has been strengthening its capacity by entering into MOUs with other foreign regulators as well as exposing their staff to training on monitoring and supervision of such entities.

Accountants and the legal sector often handle funds/assets on behalf of their clients and as such, are seen as being vulnerable especially if no due diligence measures are undertaken with regards to the source of funds or PEPs. They may also be involved in the offshore sector in the creation or administering of legal persons and arrangements. Their vulnerability can be seen in the case of a local lawyer who provided advice on how to launder funds and was later exposed on Al Jazeera TV. Continual sensitization on AML as well as regular on-site inspections will help mitigate this vulnerability.

1.4.5 Money Laundering Risk at Casino Sector

The overall vulnerability of the Casino sector can be rated as **Medium High** as they are apt to be used for money laundering purposes as the business handles mostly cash. Clients who wish to avoid paying taxes or launder their funds will gamble at the Casinos with the winning providing a clear paper trail as to the source of their winnings. Alternatively, they may give other individuals money to gamble on their behalf. There is also the possibility that clients will buy chips, gamble a bit and later cash in their chips to create a paper trail. To mitigate this threat, the FIU conducted training on AML for the staff of most of the Casinos with the emphasis on how to detect money laundering schemes. Examiners from the FIU have commenced on-site inspections of Casinos to verify compliance to the AML Act. There are five licensed Casinos of which only three are operating actively and they are the three biggest

⁸⁷(2017) SCSC 188 FIU vs. Andy Onezime

Casinos. The Casino at Eden Island and the one previously operating at the Pirates Arms have ceased operations in 2016.

After completing the World Bank NRA methodology with the necessary information, the following results were obtained with regards to Casinos:

Chart 1: Casino Output Chart

| Details | Rating |
|---|---------------|
| Final Vulnerability of the Business / Profession | Medium High |
| Inherent Vulnerability of the Business / Profession | High |
| Quality of AML Controls | Medium Low |
| Quality of Operations | Medium Low |
| Quality of AML Supervision | Medium |
| Quality of AML Policies & Procedures | Medium High |
| Quality of CDD Framework | Low |
| Commitment and Leadership of Management | Medium |
| Compliance level of Staff | Medium Low |

1.4.5.2 Money Laundering Risk at Accountants & Auditors

The overall vulnerability of the Accountants sector can be rated as Medium Low as Accountants act on behalf of their clients and as a result are in a position to engage in or act as conduits for money laundering. They may also be involved in the offshore sector in the creation or administering of legal persons and arrangements. The Association of Accountants⁸⁸, a self-regulatory body has been set up but membership is not mandatory. A draft proposed bill to regulate the Accountants sector is yet to be considered. However, examiners from the FIU have conducted on-site examinations of Accountants/Auditors to ensure compliance with the AML Act. Under the AML Act, an auditor who during has reasonable grounds to suspect that information concerning any transaction may be related to the commission of criminal conduct, should report the transaction or attempted transaction to the FIU. So far, no such report has been received by the FIU.

After completing the World Bank NRA Methodology with the necessary information, the following results were obtained with regards to Auditors and Accountants:

Chart 2: Accountants/Auditors Output Chart

| Details | Rating |
|--|---------------|
| Final Vulnerability of the Business/Profession | Very Low |
| Quality of AML Controls | Medium Low |
| Quality of Operations | Medium Low |

⁸⁸<http://www.nation.sc/article.html?id=228575>

| | |
|---|------------|
| Quality of AML Supervision | Low |
| Quality of AML Policies & Procedures | Medium |
| Quality of CDD Framework | High |
| Commitment and Leadership of Management | Medium Low |
| Compliance level of Staff | Medium |

1.4.6 Money Laundering Risk at Motor Vehicle Dealers

Though local Motor Vehicle dealers claim that only 10 percent of their sales are paid in cash, they are still considered as a high risk group and the overall vulnerability of this sector can be rated as High. Criminals invest their ill-gotten gains in such type of assets notably in Car Hire companies. This can be substantiated by the seizure of 20 cars from two Car Hire Companies belonging to two individuals suspected of engaging in criminal activities⁸⁹.

The pronouncement by the President that future purchases of cars must be made either by Bank Transfers or payment by cheques will go towards reducing the vulnerability of money laundering in this sector. Though SLA has started to take measures to ensure that this directive is complied, no legislation has been enacted to enforce the pronouncement made. Examiners from the FIU have conducted inspections of motor vehicle dealers to ensure adherence to the requirements of the AML Act notably information ascertaining the origin of the source of the funds. The vulnerability exists when criminals invest in motor vehicles, some of which can be placed in the names of relatives and friends with payments being made in cash. With the seizure of 12 cars by the FIU in 2016⁹⁰ and an additional 8 cars in early 2017, the criminal fraternity was shocked and now avoids investing their illegal proceeds in such assets as then can be seizure.

After completing the World Bank Methodology with the necessary information, the following results were obtained with regards to motor Vehicle Dealers.

Chart 3: Vehicle Dealers Output Chart

| Details | Rating |
|--|-------------|
| Final Vulnerability of the Business/Profession | Very High |
| Quality of AML Controls | Low |
| Quality of Operations | Low |
| Quality of AML Supervision | Low |
| Quality of AML Policies & Procedures | Medium |
| Quality of CDD Framework | Medium High |

⁸⁹http://www.seychellesfiu.sc/#tab_media

⁹⁰<http://www.seychellesnewsagency.com/articles/5393/Seychelles+seizes+%2C+in+assets+in+first-time+operation>

http://www.seychellesfiu.sc/#tab_media

| | |
|---|-----|
| Commitment and Leadership of Management | Low |
| Compliance level of Staff | Low |

1.4.7 Money Laundering Risk at Precious Metals and Stones

The overall vulnerability of the Precious Metals and Stones sector can be rated as Medium High with payments being made in cash, a lack of CDD framework and controls thus making it susceptible to being used for money laundering purposes. There does not seem to be any control or supervisory oversight with regards to the purchase and eventual export overseas of used gold artefacts which may be related to burglaries committed by criminals.

After completing the World Bank Methodology with the necessary information, the following results were obtained with regards to Precious Metals & Stones Dealers:

Chart 4: Precious Metals Output Chart

| Details | Rating |
|--|-------------|
| Final Vulnerability of the Business/Profession | Medium High |
| Quality of AML Controls | Low |
| Quality of Operations | Low |
| Quality of AML Supervision | Low |
| Quality of AML Policies & Procedures | Medium |
| Quality of CDD Framework | Low |
| Commitment and Leadership of Management | Medium Low |
| Compliance level of Staff | Medium Low |

1.4.8. Money Laundering Risk at Real Estate Dealers

The overall vulnerability of the Real Estate can be rated as **High** as criminals can hide their ill-gotten gains in this sector. Purchases in Real Estate are sometimes made in cash for foreigners by Seychellois who act as nominee Directors. After a period of time, the Seychellois Directors resign and the company which is owned by foreigners is the owner of the property without having sought prior approval of MLUH as is required. Suspected drug traffickers may also purchase assets and place them in the name of relatives and other people.

A delegation from the FIU met with Real Estate Dealers and learnt of the following risks inherent to this sector:

- Of the five Real Estate Agents interviewed, senior officials from three agencies have participated in the AML training organized by the FIU after which one officer passed on what she had learnt to her colleagues. Two agencies have no training in AML.

- One agency caters for high-end clients and conducts all CDD on her clients including a PEP declaration. The others cater to both locals and foreigners and also conduct CDD on all clients. They also rely on Lawyers to do their CDD which is high risk;
- For foreigners, government sanction is required and all the agencies claim that this is sought beforehand. There have been instances whereby this requirement has been bypassed by locals who have acted as nominees for foreigners.
- The Real Estate Board set up by the Estate Agents Act considers applications for registration as an Estate Agent. Must hold a Certificate of Practice in Estate Agency or a minimum of 5 years' experience in Estate Agency Work. So far 9 agencies have been registered, two of whom are not active.
- The Real Estate Board has never met with the Real Estate Agents nor conducted any supervision to ensure that they are not engaging in illegal activities. Board merely relies on information received from aggrieved clients or otherwise to take disciplinary action against a registered agent. This has led to unregistered individuals and companies trying to sell real estate;
- To-date no cases of refusal on account of failure to meet AML controls has been encountered by the Board;
- Some Real Estate Agents merely act as middlemen between the buyer and seller and does not know anything about the transactions.
- Real Estate Dealers claim that they do not accept cash and bank transfers are preferred.

After completing the World Bank Methodology with the necessary information, the following results were obtained with regards to Real Estate Dealers.

Chart 5: Real Estate Dealers Output Chart

| Details | Rating |
|---|---------------|
| Final Vulnerability of the Business / Profession | Medium Low |
| Inherent Vulnerability of the Business / Profession | Medium Low |
| Quality of AML Controls | Low |
| Quality of Operations | Low |
| Quality of AML Supervision | Medium High |
| Quality of AML Policies & Procedures | Medium |
| Quality of CDD Framework | Medium Low |
| Commitment and Leadership of Management | Medium |

| | |
|---------------------------|-----|
| Compliance level of Staff | Low |
|---------------------------|-----|

1.4.9 Money Laundering Risk at Lawyers

The overall vulnerability of the Legal sector can be rated as **Medium Low**. Lawyers maintain accounts on behalf of their clients and as such are susceptible to being utilized for money laundering. The judiciary circulated a questionnaire to its lawyers and the results indicate the problem and risks faced by lawyers.

The Legal Profession in Seychelles consists of admitted attorneys-at-law, notaries, persons authorized to provide legal advice under section 13A of the Legal Practitioners Act⁹¹ and persons who are employed in the Chambers of the Attorney General. The latter are not included for the purposes of this exercise. All are regulated by the Legal Professionals Act and Legal Professionals Licensing Regulations and Professional Conduct Rules⁹². They are all required to hold a license which is granted by the Registrar of the Supreme Court. The Supreme Court exercises prudential oversight over attorneys-at-law and de facto oversight over notaries and section 13A Legal Practitioners by virtue of its licensing role (although these are appointed and removed by the Minister for Legal Affairs). There are about 48 Licensed Legal Practitioners in Seychelles (excluding the members of the Attorney General’s Chambers). The FIU has investigated lawyers for having been conduits for ML in Seychelles. Generally there has been a reluctance to investigate and prosecute lawyers for ML related offences. There has been no indication of lawyers being involved in TF activities.

After completing the World Bank Methodology with the necessary information, the following results were obtained with regards to the Legal Practitioners.

Chart 6: Legal Practitioners Output Chart

| Details | Rating |
|--|--------|
| Final Vulnerability of the Business / Profession | Low |

⁹¹ Legal Practitioners Act (1 September 1994) Consolidated to 1 December 2014 <http://greybook.sey.ii.org/w/se/CAP111#fragment//KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdIYXLEh8SgxKLEpMSXxLTETsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk>

⁹² <https://www.sey.ii.org/sc/legislation/consolidated-act/111>

| | |
|---|------------|
| Inherent Vulnerability of the Business / Profession | Low |
| Quality of AML Controls | Medium |
| Quality of Operations | Low |
| Quality of AML Supervision | Low |
| Quality of AML Policies & Procedures | Medium Low |
| Quality of CDD Framework | Very Low |
| Commitment and Leadership of Management | Low |
| Compliance level of Staff | Low |

1.4.10 Money Laundering Risk at Boat & Yacht Dealers

The overall vulnerability of the Boat and Yacht sector can be rated as Medium High as Boat dealers can provide an avenue for criminals wishing to launder their illegal funds. Though there is only one such company, the products they sell are of high net worth especially to clients at Eden Island. With payments being made in cash, a lack of an AML framework and no supervisory oversight makes this sector susceptible to being used for money laundering purposes.

After completing the World Bank Methodology with the necessary information, the following results were obtained with regards to Boat & Yacht Dealers.

Chart 7: Boat & Yacht Dealers Output Chart

| Details | Rating |
|---|-------------|
| Final Vulnerability of the Business / Profession | Medium High |
| Inherent Vulnerability of the Business / Profession | Medium High |
| Quality of AML Controls | Low |
| Quality of Operations | Low |
| Quality of AML Supervision | Low |
| Quality of AML Policies & Procedures | Medium |
| Quality of CDD Framework | Very Low |
| Commitment and Leadership of Management | Medium Low |
| Compliance level of Staff | Medium Low |

Summary of proposed Actions and Recommendations

Following the analysis of the Sector, the overall threat of and vulnerability to ML within the DNFBP sector has been assessed as Medium High. These are driven by the elevated domestic perception of ML risks as well as the jurisdictions reputation on the international scene as an offshore haven. To mitigate the deficiencies identified a list of recommendations for the sector can be found in Annex 1, whilst the proposed Action Plan is contained in Annex 5.

1.5 MONEY LAUNDERING RISK AT OTHER FINANCIAL INSTITUTIONS

1.5.1 Overview of Sector

As part of Module 6 which covers the vulnerability of Other Financial Institutions to the risk of Money Laundering (ML) several sectors/activities were assessed. These include Money remittance activities, Buying and Selling of Foreign Exchange as well as the activities of Other

Lenders. The group comprised of representatives from the private sector, the commercial banks, representatives of Bureau de Change (BDC) and mobile money providers, regulatory authorities including the FIU and CBS as well as representatives from the SRC.

Below is an overview of each of the 3 sectors/activities that have been assessed:

1.5.1.1 Money Remittance

The remittance market in Seychelles is serviced by commercial banks and Class ABDCs that provide intermediary services for traditional Money Transfer Operators such as Western Union, Ria, Money Gram, etc... or in some cases make use of their proprietary systems. Class A BDCs are licensed under the Financial Institutions Act, 2004 and the National Payment Systems (NPS) Act, 2014⁹³ to provide money remittance services and are regulated by the Central Bank of Seychelles.

As regards commercial banks, remittances are mainly provided by commercial banks through the use of SWIFT for international and the Seychelles Electronic Funds Transfer System (SEFTS)⁹⁴ for local funds transfers. Commercial banks are licensed under the Financial Institutions Act, 2004 while also being authorised under the NPS Act, 2014, for the provision of payment services in Seychelles.

As at the end of 2015 there were a total of 12 licensed Class A BDCs providing money remittance services in Seychelles. TT transfers by BDCs in 2014 amounted to 23.66% of all transfers of FX (re Pie Chart 1). In terms of absolute figures this amounted to SCR 3.23 billion worth of transfers conducted by class A BDCs as compared to SCR 10.43 billion by commercial banks.⁹⁵ This is higher than the US whereby banks accounted to only 5% of total remittances in the market in 2005⁹⁶ and highlights the relatively high importance of Class A BDCs in the local economy in the provision of remittance services.

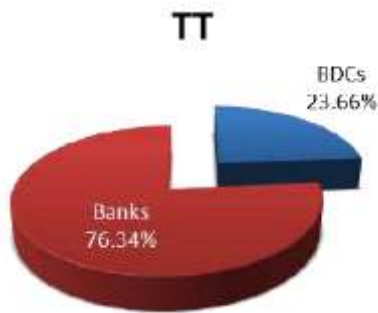
Pie Chart 2: TT transfers by BDCs in 2014

⁹³<http://www.seyii.org/sc/legislation/act/2014/14>

⁹⁴SEFTS is a domestic funds transfer system that facilitates money transfers by the banking institutions through an online communication channel in a safe and efficient manner, officially launched on August 19, 2013 by the Central Bank of Seychelles (CBS) Available at: [http://www.cbs.sc/Downloads/Pressrelease/Press%20Release%20-%20Upgrade%20of%20the%20Seychelles%20Electronic%20Funds%20Transfer%20\(SEFT\)%20system.pdf](http://www.cbs.sc/Downloads/Pressrelease/Press%20Release%20-%20Upgrade%20of%20the%20Seychelles%20Electronic%20Funds%20Transfer%20(SEFT)%20system.pdf)

⁹⁵Source: Financial Services Supervision Report 2014.

⁹⁶Source: OECD (2007, Pg. 32),



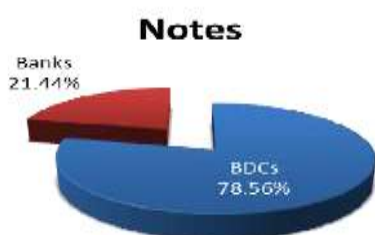
Source: Financial Services Supervision Report 2014

1.5.1.2 Buying and Selling of FX

Class A and Class B BDCs are licensed by the Central Bank of Seychelles to buy and sell foreign exchange. The activities of these entities are governed by the Financial Institutions Act, 2004. As at the end of 2015 there were a total of 12 Class B and 12 Class A BDCs providing services for buying and selling foreign exchange in Seychelles.

Whilst most of the remittance market is dominated by banks, it is to be noted that in 2014 Purchases and Sales of FX by BDCs amounted to 78.56% of total purchases and sales of FX notes by Banks and BDCs. This is depicted in the Pie Chart 2 below. Of note, this represents SCR 1.23 billion worth of transactions conducted by BDCs as compared to SCR 0.33 billion conducted by banks. The dominance of BDCs in this sector highlights its relatively high importance in the economy.

Pie Chart 3: purchases and sales of FX notes by Banks and BDCs



Source: Financial Services Supervision Report 2014

1.5.1.3 Other Lenders

The vulnerability to ML risk of Other Lenders such as the Housing Finance Company (HFC)⁹⁷, the Development Bank of Seychelles (DBS)⁹⁸ and the Seychelles Credit Union (SCU)⁹⁹ were also assessed.

In 2009, the Government delegated and transferred specific powers from the then named Ministry of National Development which held the portfolio of HFC to the Central Bank so as to be monitored very closely and reduce the financial risks posed due to its operations. As such, whilst HFC operates under the FIA, not all provisions of the FIA are applicable to the HFC.

In 2014, HFC had a total asset base of SCR 571 million with a total loan portfolio in excess of SCR 400 million. This accounted for 3.2% of total GDP in 2014 again highlighting the importance of such institutions in the economy.

DBS is governed by the DBS Decree and in 2009, under the Transfer and Delegation of Statutory Functions Act, certain exercise of powers and performance of duties vested in the President of the Republic of Seychelles and the Minister were delegated to the Central Bank of Seychelles.

As at the end of 2014, DBS had total assets worth SCR566 million which represents 2.7% of total assets of all credit granting institutions in Seychelles. Moreover as a percentage of total GDP in 2014, this amounted to 3.2% of GDP, thus highlighting the relative importance of DBS in the local economy.

Credit Unions are governed by the Credit Union Act, 2009, as amended.

The SCU plays a vital role in the economy through its financial intermediation function. Its principal strategic objectives are as follows:

- 1) Creation of a pool of funds to provide credits/loans to members
- 2) Mobilization of savings amongst its membership
- 3) Promote thrift amongst its membership
- 4) Provide financial services at affordable and competitive rates of interest
- 5) Encourage good governance, transparency and democratic practices

⁹⁷The Housing Finance Company Limited (HFC) is a financial body which was incorporated on 21 May 2003 under the Companies Act, 1972. The HFC is a fully government owned company which provides financing to Seychellois citizens for the purchase of land, the construction of houses and financing home improvements'. Available at: <http://www.pemc.sc/index.php/public-enterprises/item/34-housing-finance-company-ltd>

⁹⁸ 'The Development Bank of Seychelles (DBS) was established in 1977 under Decree No.21 as a development finance institution with the mandate to assist in the economic development of the Seychelles. This Decree entrusted DBS the power of local and external borrowings for financing financially and economically viable projects in the sectors of the economy, mainly Agriculture, Fisheries, Industry, Tourism and Service.' Available at: www.dbs.sc

⁹⁹ 'As the only community-based savings and credit cooperative society (Credit Union) in Seychelles, the Seychelles Credit Union has the mission of promoting thrift amongst its members to enable it to provide quality and fairly priced financial services to the community sphere through putting people before profits and deliver financial services that not only meet but surpass members' expectations.' Available at: www.scu.sc

6) Empower members so that they become self-reliant

As at the end of 2014, the SCU had total assets of SCR 220.99 million with a total loan portfolio of SCR 140.73 million. In terms of total assets this represents approximately 1% of the total assets of all credit granting institutions in Seychelles.

1.5.2 Methodology Used to assess the Sector

Questionnaires (at Annex 16) were the main tool used in order to assess the vulnerability of the Other Financial Institutions sector to money laundering in Seychelles.

The Questionnaires, together with instructions for the completion of the questionnaire were forwarded to each institution within the sectors through email. Within the period of deadline, continuous follow-up were made as a way of reducing non-response. Furthermore, extensions of deadlines were also provided where applicable.

The questionnaire has been constructed based on the National Risk Assessment Tool in such a way which allows the sector to self-evaluate their ability to combat money laundering and terrorist financing risk.

As per the instructions, each participant was requested to rate each of the questions under each variable. The ratings vary as follows:

| | | | | | | | | | | |
|------------|--------------------|------------|------------|-------------|------------|------------|------------|------------|------------------|----------------|
| Excellent | Close to Excellent | Very High | High | Medium High | Medium | Medium Low | Low | Very Low | Close to Nothing | Does Not Exist |
| E | CTE | VH | H | MH | M | ML | L | VL | CTN | DNE |
| 1.0 | 0.9 | 0.8 | 0.7 | 0.6 | 0.5 | 0.4 | 0.3 | 0.2 | 0.1 | 0.0 |

The questionnaire also allowed the institutions to provide justifications for their ratings where applicable.

For each of the ratings a score was allocated ranging from 0.0 up to 1. Once the questionnaire was completed, each of the ratings allocated for each questions under each variables by each Institutions where compiled and the average score has been considered as the final score for each variables.

From these end results, the ratings have been allocated on the Assessment Worksheets for input Variables within the World Bank Methodology.

In instances where information was unavailable, discussion with industry participants have been relied on for assigning ratings.

1.5.3 Sector Overall Assessment

The overall vulnerability of the Other Financial Institutions Sector has been considered to be **Medium High** in view of the highly cash intensive nature of activities in this sector such as buying and selling of FX and remittance activities. Moreover, the level of activities provided by these entities are for some part even more than the services provided by the banking sector such as the buying and selling of foreign currencies. Money remittance is also largely being done by entities in this sector where they account for a quarter of all remittance activities in the financial sector. These levels of activities for these sectors which in general do not have the resources to put in place the necessary internal controls and resources to mitigate against ML risks implies a high exposure to such risks. Moreover, as previously mentioned, activities and institutions analyzed in this sector account for a significant portion of the country's GDP.

Detailed assessment for each sector is discussed below as well as the recommendations for improvement:

1.5.3.1 Money Remittance Activities

The vulnerability to ML risk of money remittance activities conducted by BDCs is perceived to be relatively high in Seychelles. This is in view that there is a perception that individuals seeking to launder money make use of the BDCs to transfer their proceeds of crimes and that banks have more robust AML controls in place compared to the Class A BDCs. Another factor which may contribute to this perception is that the level of supervision exercised by supervisory authorities on banks is considered to be relatively more than that of BDCs as well as the fact that their remittance activities are highly cash intensive as compared to that of banks. Moreover, it is generally believed that BDCs undertake transactions which are not recorded and reported, hence do not keep the necessary records for transactions for reporting for AML purposes.

As highlighted in Table 12 below, the main areas of deficiency for the remittance activities include the effectiveness of compliance functions at the organization levels. The assessment of this criteria has shown that most institutions have internal compliance programs that are not sensitive to the level of risk of the institution, does not take into account factors such as jurisdictions of end-users, professional intermediary clients, clients that are complex, opaque legal structures, the volume and nature of products provided, the client base profile, the frequency of international transactions.

Table 11: Assessment Rating of Input variables/AML Controls

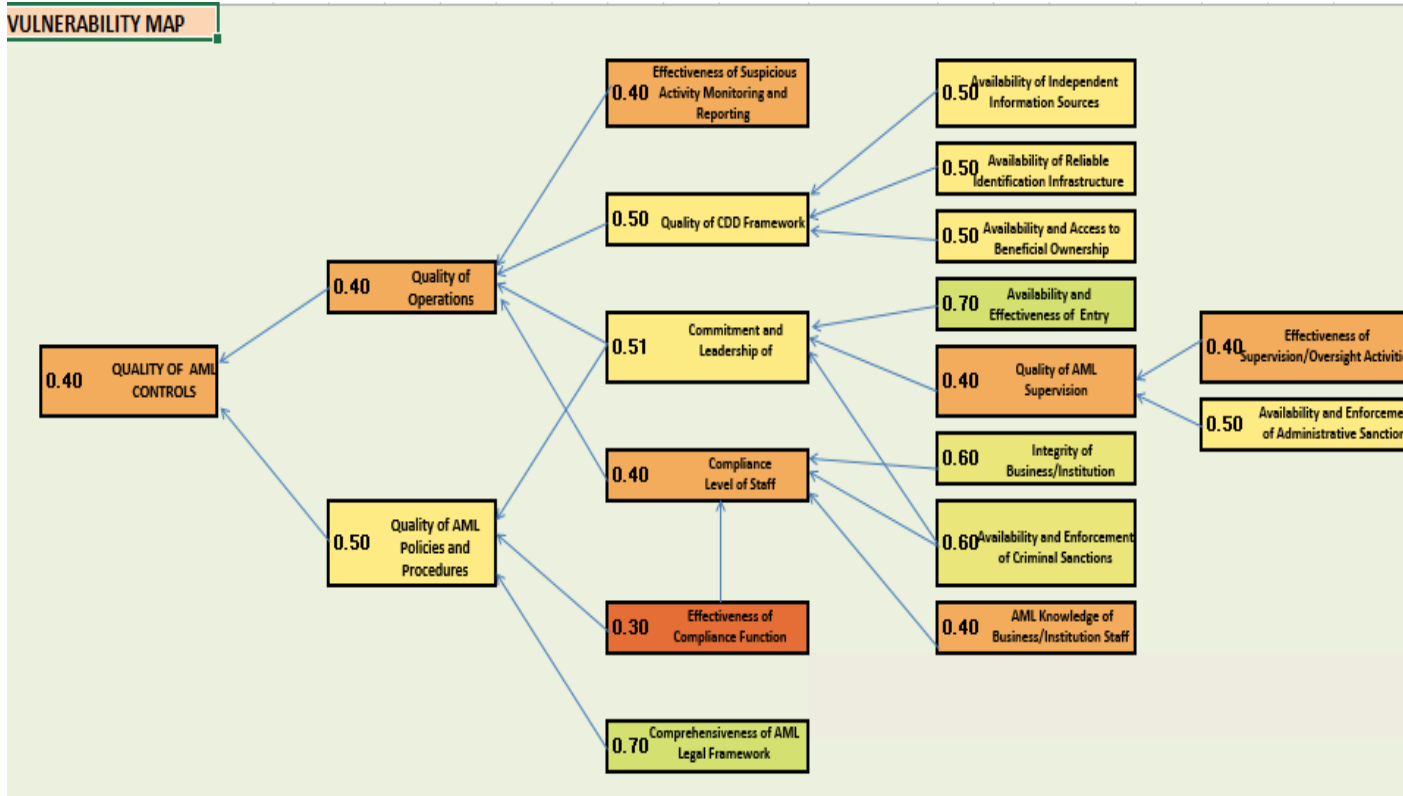
| A. GENERAL INPUT VARIABLES/AML CONTROLS | ASSESSMENT RATING | |
|---|-------------------|-----|
| Comprehensiveness of AML Legal Framework | (0.7) High | 0.7 |
| Effectiveness of Supervision/Oversight Activities | (0.4) Medium Low | 0.4 |
| Availability and Enforcement of Administrative Sanctions | (0.5) Medium | 0.5 |
| Availability and Enforcement of Criminal Sanctions | (0.6) Medium High | 0.6 |
| Availability and Effectiveness of Entry Controls | (0.7) High | 0.7 |
| Integrity of Business/Institution Staff | (0.6) Medium High | 0.6 |
| AML Knowledge of Business/Institution Staff | (0.4) Medium Low | 0.4 |
| Effectiveness of Compliance Function (Organization) | (0.3) Low | 0.3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | (0.4) Medium Low | 0.4 |
| Availability and Access to Beneficial Ownership Information | (0.5) Medium | 0.5 |
| Availability of Reliable Identification Infrastructure | (0.5) Medium | 0.5 |
| Availability of Independent Information Sources | (0.5) Medium | 0.5 |

The independence of the compliance officers from other functions within the organization is also seen as one of the deficiencies for Class A BDCs. Moreover, based on statistics there has not been/close to none disciplinary actions that has been taken against staff for non-compliance. The internal audit function in relation to ML risk as well as that of external audit is also seen to be a point of concern for institutions in this sector.

Other important factors which led to the high vulnerability of this sector to ML risk are the effectiveness of supervision/oversight activities, AML knowledge of business/institutions staff and lastly the effectiveness of suspicious activity monitoring and reporting. This is further highlighted in the below Vulnerability Map which shows that the quality of operations of entities within this sector is a main contributor to the high vulnerability levels for this sector.

The assessment of this sector to the vulnerability to ML risks has highlighted several areas of weakness and actions that needs to be undertaken to strengthen the vulnerability of the money remittance sector to ML risk. The overall vulnerability of this sector to ML risk has been rated as Medium High. The findings and recommendations are highlighted overleaf.

Chart 8: Vulnerability Map



Areas of priority to mitigate the vulnerabilities are highlighted in Table 12

Table 12: Priority ranking for AML Controls

| PRIORITY RANKING FOR AML CONTROLS - LAST CASE/SCENARIO | PRIORITY RANKING** |
|---|--------------------|
| Comprehensiveness of AML Legal Framework | |
| Effectiveness of Supervision/Oversight Activities | 2 |
| Availability and Enforcement of Administrative Sanctions | 5 |
| Availability and Enforcement of Criminal Sanctions | 8 |
| Availability and Effectiveness of Entry Controls | |
| Integrity of Business/Institution Staff | 6 |
| AML Knowledge of Business/Institution Staff | 1 |
| Effectiveness of Compliance Function (Organization) | 3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | 4 |
| Availability and Access to Beneficial Ownership information | 9 |
| Availability of Reliable Identification Infrastructure | 7 |
| Availability of Independent Information Sources | 10 |

As can be observed, attention should be given to increasing the AML knowledge of business/institutions staff. This could be done by ensuring that FIU designs and deliver more

regular training programs tailored for different levels of staff and where possible should be accredited by a recognised AML training body. Entry controls/renewal of licenses under relevant laws/regulations should take into account the need for Institutions to provide adequate AML training to staff. Moreover, compliance officers to be appointed and should be responsible for designing and providing AML trainings internally within the institution.

Secondly, the concerned authorities are to ensure that the effectiveness of supervision/oversight of these entities is strengthened. This can be achieved through more frequent examinations of entities, increasing resources and implement a risk-based approach to its supervisory function, implementation of administrative sanctions within the relevant laws and legislations and ensure that these are applied when the need arises.

A detailed assessment and recommendations for each of the criteria is provided in Annex 17¹⁰⁰

1.5.3.2 Buying and selling of FX by BDCs

The overall vulnerability of this sector to ML risk has been identified to be **Medium High**. The activity of buying and selling of FX by both Class A and Class B BDCs are also perceived to be of high ML risk. Several factors contribute to this level of risk including, the cash intensive nature of such activities taking into consideration the share of transactions that are conducted by BDCs in comparison to banks, limited resources of entities in this sector, etc.

Findings and recommendations are provided below in Table 13

Table 13: General Input Variable

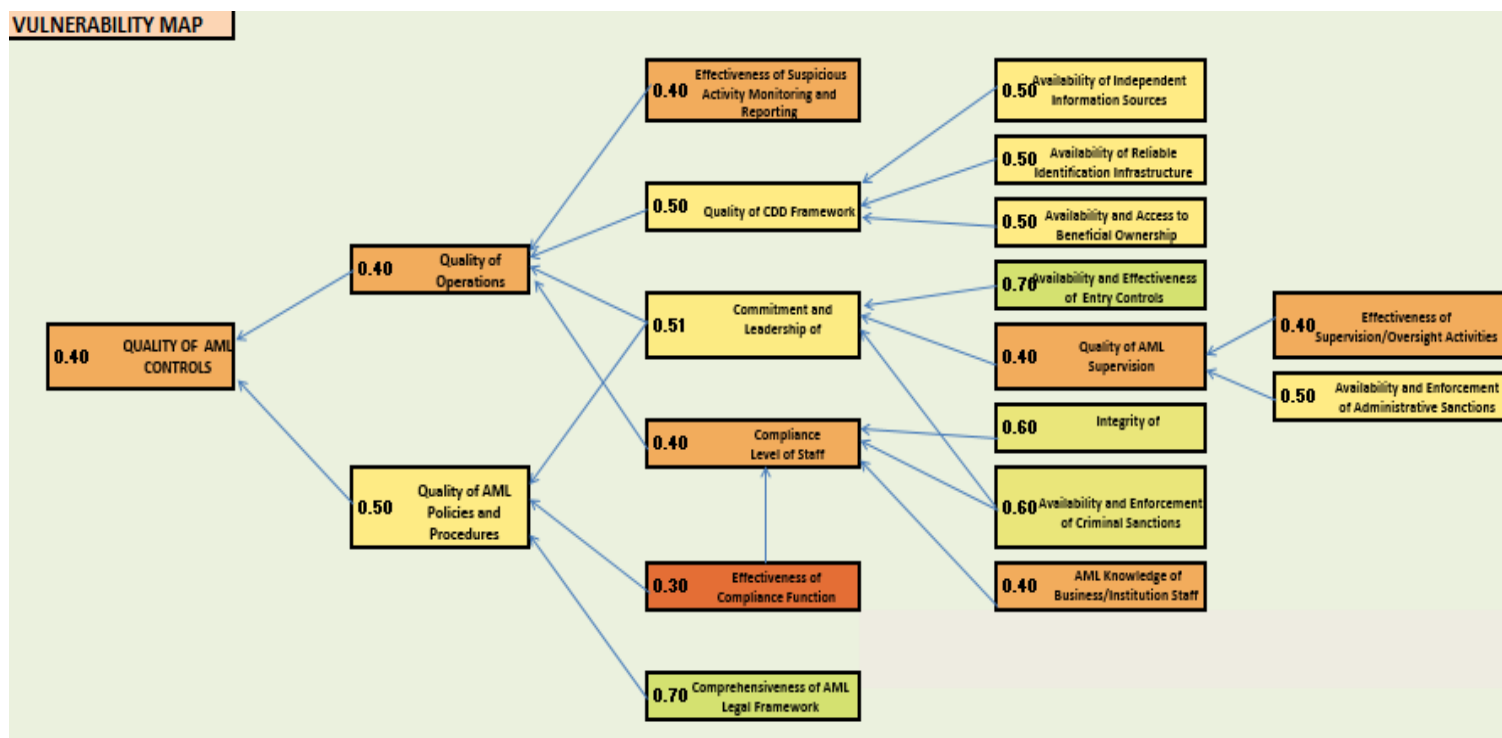
| A. GENERAL INPUT VARIABLES/AML CONTROLS | ASSESSMENT RATING | |
|---|-------------------|-----|
| Effectiveness of Supervision/Oversight Activities | {0.4} Medium Low | 0.4 |
| Availability and Enforcement of Administrative Sanctions | {0.5} Medium | 0.5 |
| Availability and Enforcement of Criminal Sanctions | {0.6} Medium High | 0.6 |
| Availability and Effectiveness of Entry Controls | {0.7} High | 0.7 |
| Integrity of Business/Institution Staff | {0.6} Medium High | 0.6 |
| AML Knowledge of Business/Institution Staff | {0.4} Medium Low | 0.4 |
| Effectiveness of Compliance Function (Organization) | {0.3} Low | 0.3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | {0.4} Medium Low | 0.4 |
| Availability and Access to Beneficial Ownership information | {0.5} Medium | 0.5 |
| Availability of Reliable Identification Infrastructure | {0.5} Medium | 0.5 |
| Availability of Independent Information Sources | {0.5} Medium | 0.5 |

Similar to the analysis of remittance activities, main areas of deficiency for the buying and selling of FX activities include Effectiveness of Compliance Functions of Organisations,

¹⁰⁰ Re Annex17,18 & 19 for Module 6 Other Financials

Effectiveness of Suspicious Activity Monitoring and Reporting, AML Knowledge of Business/Institutions Staff and Effectiveness of Supervision/Oversight Activities.

Chart 9: Vulnerability Map



Areas of priority to mitigate against the vulnerabilities in the activity of buying and selling FX are highlighted in the chart overleaf.

Table 14: Priority Ranking for AML Controls

| PRIORITY RANKING FOR AML CONTROLS - LAST CASE/SCENARIO | PRIORITY RANKING** |
|---|--------------------|
| Comprehensiveness of AML Legal Framework | |
| Effectiveness of Supervision/Oversight Activities | 2 |
| Availability and Enforcement of Administrative Sanctions | 5 |
| Availability and Enforcement of Criminal Sanctions | 8 |
| Availability and Effectiveness of Entry Controls | |
| Integrity of Business/Institution Staff | 6 |
| AML Knowledge of Business/Institution Staff | 1 |
| Effectiveness of Compliance Function (Organization) | 3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | 4 |
| Availability and Access to Beneficial Ownership information | 9 |
| Availability of Reliable Identification Infrastructure | 7 |
| Availability of Independent Information Sources | 10 |

Same recommendations and priority in addressing these deficiencies as for the remittance sector needs to be applied to the buying and selling of FX.

A detailed assessment of the criteria is provided in Annex 18¹⁰¹.

1.5.3.3 Other lenders (HFC, DBS, SCU)

The overall vulnerability of this sector to ML risk has been identified to be **Medium Low**. Within this category of institutions it is generally perceived that the ML risk associated with their activities are considered to be low. This is in view that such institutions generally do not have much cash based activity as compared to Banks and BDCs and often payment of loans for DBS and HFC, are done through commercial banks which are perceived to have more robust controls in place to identify and mitigate ML risks.

Nonetheless, there are various weaknesses which have been highlighted for entities within this sector which needs to be addressed to mitigate the risk associated with ML.

Main findings and recommendations are provided overleaf on Chart 10: General Input Variable.

¹⁰¹ Re Annex17,18 & 19 for Module 6 Other Financials

Chart 10: General Input Variable

| A. GENERAL INPUT VARIABLES/AML CONTROLS | ASSESSMENT RATING | |
|---|-------------------|-----|
| Comprehensiveness of AML Legal Framework | (0.6) Medium High | 0.6 |
| Effectiveness of Supervision/Oversight Activities | (0.4) Medium Low | 0.4 |
| Availability and Enforcement of Administrative Sanctions | (0.5) Medium | 0.5 |
| Availability and Enforcement of Criminal Sanctions | (0.6) Medium High | 0.6 |
| Availability and Effectiveness of Entry Controls | (0.3) Low | 0.3 |
| Integrity of Business/Institution Staff | (0.6) Medium High | 0.6 |
| AML Knowledge of Business/Institution Staff | (0.4) Medium Low | 0.4 |
| Effectiveness of Compliance Function (Organization) | (0.3) Low | 0.3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | (0.4) Medium Low | 0.4 |
| Availability and Access to Beneficial Ownership information | (0.5) Medium | 0.5 |
| Availability of Reliable Identification Infrastructure | (0.5) Medium | 0.5 |
| Availability of Independent Information Sources | (0.5) Medium | 0.5 |

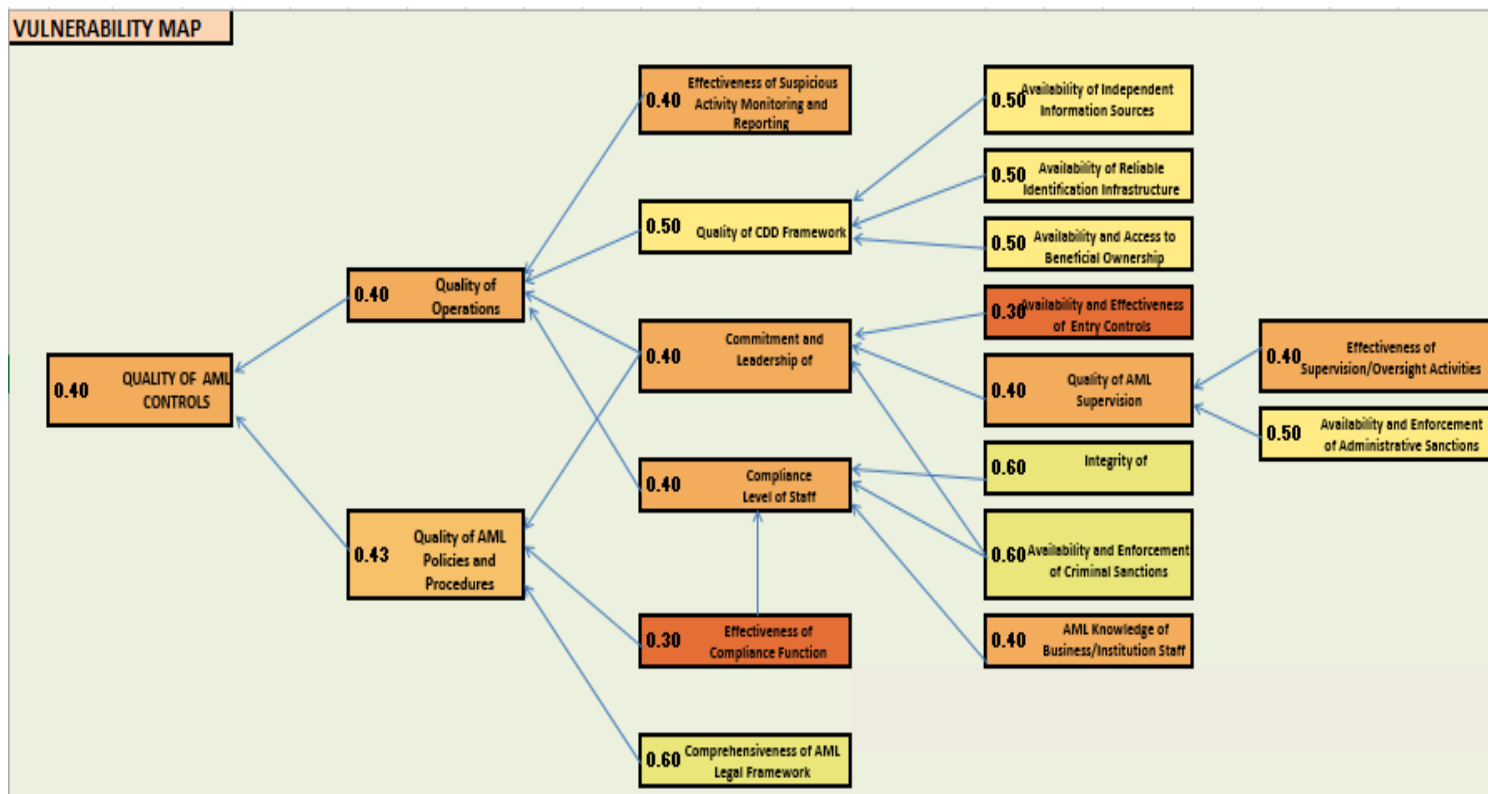
One of the main weaknesses causing vulnerabilities to ML as highlighted in the assessment of this sector is in regards to the availability and effectiveness of entry controls. For DBS and HFC, sections of the Financial Institutions Act that governs the licensing of financial institutions are not applicable to these entities. Moreover, for SCU there is a lack of clarity as to the procedure and the authority responsible for the licensing of a Credit Union. Additionally, rules for due diligence for the appointment of shareholders, directors, CEO of Credit Unions have not been drafted, hence impacting on the effectiveness of entry controls.

The effectiveness of the compliance function at the level of the organisation is also seen to be one of the main issues causing vulnerabilities in this sector. No internal compliance program exists for these entities. Moreover, none of the institutions within this category have a compliance officer. Additionally, institutions within this category do not have compliance policies and as such no disciplinary action has been taken against staff for such breaches. The majority of institutions in this sector do not have annual internal audit covering AML. The scope of these audits is not documented and independence and the integrity of the audit that is performed is questionable. Additionally, there are no external AML audits that are conducted by any of the institutions.

The Effectiveness of supervisory/oversight function, AML knowledge of business/institutions staff and the effectiveness of suspicious transaction monitoring and reporting are also criteria that adversely affect the vulnerability of institutions in this sector to ML risk. Details of the vulnerabilities are provided in Annex 19¹⁰².

¹⁰² Re Annex 17, 18 & 19 for Module 6 Other Financials

Chart 11: Vulnerability Map



Areas of priority to mitigate against the vulnerabilities are highlighted in the Table 15 below.

Table 15: Priority ranking for AML controls

| PRIORITY RANKING FOR AML CONTROLS - LAST CASE/SCENARIO | PRIORITY RANKING** |
|---|--------------------|
| Comprehensiveness of AML Legal Framework | 7 |
| Effectiveness of Supervision/Oversight Activities | 2 |
| Availability and Enforcement of Administrative Sanctions | 6 |
| Availability and Enforcement of Criminal Sanctions | 10 |
| Availability and Effectiveness of Entry Controls | 4 |
| Integrity of Business/Institution Staff | 8 |
| AML Knowledge of Business/Institution Staff | 1 |
| Effectiveness of Compliance Function (Organization) | 3 |
| Effectiveness of Suspicious Activity Monitoring and Reporting | 5 |
| Availability and Access to Beneficial Ownership information | 11 |
| Availability of Reliable Identification Infrastructure | 9 |
| Availability of Independent Information Sources | 12 |

As can be observed, from the above table, the main priority area for addressing the vulnerabilities in this sector is again to strengthen the AML knowledge of business/institutions staff. This can be achieved through FIU designing and delivering more regular training programs tailored for different levels of staff and where possible should be accredited by a recognised AML training body. Entry controls/renewal of licenses under relevant laws/regulations should take into account the need for Institutions to provide adequate AML training to staff. Compliance officers to be appointed and should be responsible for designing and providing AML trainings internally within the institution.

The effectiveness of the AML supervision/oversight function is another area of priority to address the issues. Firstly, the FIU has to intensify the conduct of examinations and design and implement a risk-based approach to its AML supervision activities such that there are sufficient resources to undertake tasks which are prioritised according to risk assessments. Secondly, the FIU needs to implement and enforce administrative sanctions for non-compliance to the AML Act, corresponding legislations and guidelines as appropriate.

A detailed list of recommendation is provided in Annex 1. Further to this, based on the risk assessment undertaken and the recommended action points, a Proposed Action Plan for the Other Financial Institutions Sector can be found at Annex 6.

SECTION 2: TERRORIST FINANCING RISK

2.1 TERRORIST FINANCING RISK AT NATIONAL LEVEL

2.1.1 Country Context for Terrorist Financing

In its bid to combat the financing of terrorism, the Seychelles Government passed the Seychelles Prevention of Terrorism Act, 2004¹⁰³, Part III Section 5 criminalises terrorist financing making it an offense liable to imprisonment for a term not less than seven years and not more than 20 years. And this is further strengthened by Section 6 which also makes collection of property or financial services a criminal offence. Both Sections 5 and 6 are in large part in line with the FATF Recommendation 5.

2.1.1.1 Domestic Perception

The domestic perception of the risk of terrorism and of terrorist financing in Seychelles is low. There are no known terrorist groups or cells currently active in Seychelles and no entities domestically designated under the Prevention of Terrorism Act. Additionally, there are no known cases of funds generated in Seychelles being used to finance terrorism domestically or abroad, and no known cases of Seychellois foreign terrorist fighters.

2.1.1.2 International Perception

Internationally, Seychelles is also perceived as a low-risk jurisdiction in the terrorist financing context. Pre-departure travel advice published by governments describes the threat of terrorism in Seychelles as low. Furthermore, open source reports do not reveal any specific connection between Seychelles and terrorism or terrorist financing.

Since being declared “non-compliant” by OECD’s¹⁰⁴Global Forum on Transparency and Exchange of Information for Tax Purposes) in October 2013, Seychelles has taken proactive measures to re-establish its reputation as a State committed to preventing the use of its jurisdiction for criminal and terrorist financing purposes.

The effectiveness of this approach was recognized by the Eastern and Southern African Anti Money Laundering Group (ESAAMLG), who in April 2016 exempted Seychelles from submitting mandatory progress-evaluation reports on AML and CFT. It is the only country of the 16 member countries in the regional group to have achieved this status.

That said, on a more global scale there still appears to be a mixed view of Seychelles’ vulnerability to the threat of terrorist financing. In the Basel Index 2016 published ratings index of risks relating to money laundering and terrorist financing (where 149 is the lowest risk

¹⁰³<http://greybook.seyiii.org/w/se/2004-7#!fragment/zoupio-Toc452033498/KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jNDUyMDMzNDk4KSxub3Rlc1F1Z-XJ5OicnLHNjcm9sbEPEiMSKOiFuxLplYXLEh8SyxLTEtsS4xYfFicSHU8SQdELEtJFTEVWQU5DRSxOYWl6dMSgKSk=>

¹⁰⁴It was in 2013, that the OECD rated Seychelles as non-compliant in two areas in the Global Forum on Transparency and Exchange of Information for Tax Purposes. This was during Phase Two of the Peer Review Group rating process. - See more at:

<http://www.seychellesnewsagency.com/articles/4026/Seychelles+rated+'largely+compliant'+by+OECD+-+continued+vigilance+and+reforms+needed+to+uphold+status,+says+finance+minister#sthash.xgUr73lf.dpuf>

and 1 is the highest risk), Seychelles ranked 64th of 149 countries¹⁰⁵. Seychelles is listed amongst the top three of the Top 10 improvers 2016 with improved performance in the Financial Secrecy Index (FSI) enabling it to lower its risk rating in the Basel AML Index (Basel AML Index Report 2016, p.6). According to the banking sector, corresponding international banks still view Seychelles as a risky jurisdiction in terms of its reputation as an offshore haven, and this is reflected in the higher levels of scrutiny on transactions involving Seychelles banks.

2.1.1.3 Perceived Threats

- **Seychelles IBCs / Offshore**

Section 5 (1) of the International Business Act, 2016 (“IBC Act”) defines an IBC as a company incorporated or continued, or converted into a company, under the IBC Act 2016 and whose memorandum states that it is subject to the restrictions such as, but not limited to, carry on business in Seychelles.

Prior to the commencement of the NRA, the general perception was that the main TF risk to Seychelles is posed by the use of Seychelles-incorporated offshore entities to move funds (not necessarily through Seychelles). 140,000 international business companies (IBC) make up Seychelles’ financial services sector, compared to 650 companies when this island nation launched its offshore business in 1996¹⁰⁶.

The International Business Companies (“IBC”) that are being administered by the CSPs, through the enactment of the International Business Companies Act 2016, (“IBC Act”) new obligation has been introduced under this law requiring every IBC to keep at its registered office (the office of its registered agent) a register to be known as the register of beneficial owner which would include certain particular details of the individual as prescribed under section 356(1) of the IBC Act, 2016.

Guidelines issued for IBCs, more specifically paragraph 24, provide further clarity in respect to beneficial ownership. Whilst it is permissible under the Law to use nominee services provided by CSP, there exist clear obligation of disclosure between the nominee and each beneficial owner of an IBC. Section 356(1) (b) requires the Register of Beneficial Owners to include “particulars of each beneficial owner’s beneficial interest and how it is held;” Compliance with this provision necessitates disclosure of any shares in the company held by the beneficial owner directly or through a nominee. If the latter applies, disclosure of the

¹⁰⁵ The BASEL Index is based on the assessment of the quality of countries’ anti-money laundering and countering the financing of terrorism (AML/CFT) frameworks and related factors such as financial sector standards and public transparency. Available at :

https://index.baselgovernance.org/sites/index/documents/Basel_AML_Index_Report_2016.pdf

¹⁰⁶ <http://www.seychellesnewsagency.com/articles/4026/Seychelles+rated+'largely+compliant'+by+O ECD+- +continued+vigilance+and+reforms+needed+to+uphold+status,+says+finance+minister#sthash.xgUr73lf.qNgilmfh.dpuf>

member holding shares on behalf of the beneficial owner must be made in the Register of Beneficial Owners. As such in cases that shares of a company are being held directly or indirectly on behalf of a person which qualify of being a beneficial owner of the company, such details would be recorded in the register of beneficial owner and for consistency purposes it should reflect entry recorded in the register of shareholders (being legal owners of the share).

The Register of beneficial owners (which is maintained in Seychelles at the registered office of the CSP) is prima facie evidence of any matters which are directed by the IBC Act or permitted to be inserted in it. As such beneficial ownership information relating to IBCs are now available in Seychelles and it may be accessed by specific relevant person (e.g. FSA and other competent Authority for Tax purpose and AML/CFT). However, such information, although available, is not publicly available.

The much publicised “Panama Papers” appears to suggest a tenuous link between the uses of offshore jurisdictions for terrorist financing purposes. While there have been occasional international enquiries regarding companies registered in Seychelles with suspected links to TF, no funds associated with these companies have ever been identified within the local financial system. The Seychelles FIU is not aware of any TF-related international enforcement action in relation to these companies.

Whilst IBC’s are perceived to carry higher risk, the WG has established that IBCs are being subjected to stringent regulatory and supervisory framework whereby IBCs are required to maintain basic company information within the jurisdiction such as ;

1. Directorship information where IBCs are required to keep a Register of Director or other officer at the Registered Office in Seychelles and filing for registration to the Registrar a copy of its Register of Director. In cases of non-compliance the Registrar may impose financial sanctions on the IBC;
2. Legal ownership information where IBCs are required to keep a Register of shareholders at the Registered Office in Seychelles. In cases of non-compliance the Registrar may impose financial sanctions on the IBC; and
3. Beneficial Ownership information where IBCs are required to keep a Register of Beneficial Owners at the Registered Office in Seychelles. In cases of non-compliance the Registrar may impose financial sanctions on the IBC.

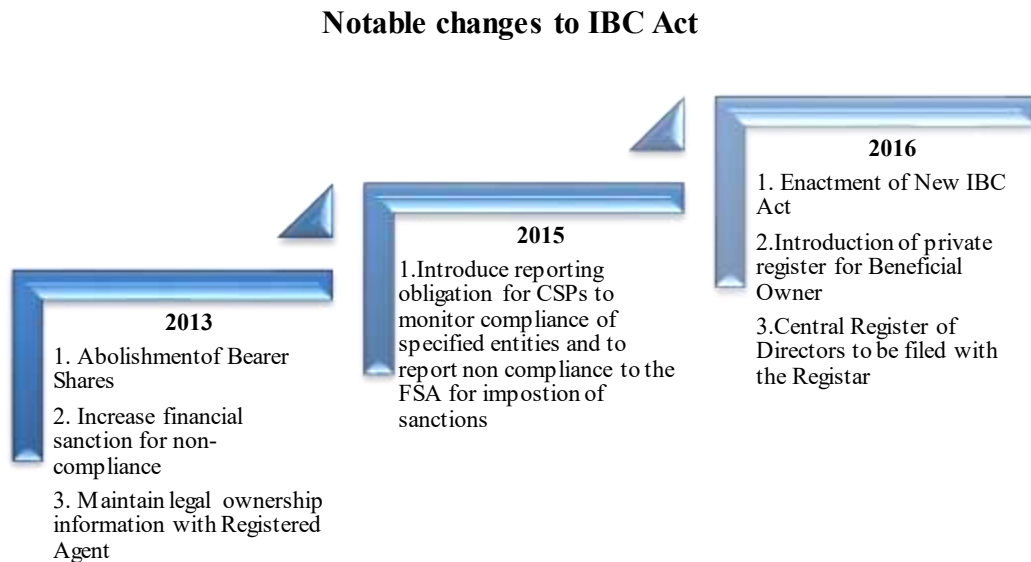
In addition to the basic company information;

4. IBCs are required to keep Accounting Records and in the event it is not being kept in Seychelles IBCs are required to keep a notification of where the Accounting records are

being maintained. In cases of non-compliance the registrar may impose financial sanctions on the IBC;

5. Since March 2015, CSPs are required to monitor compliance by specified entities and foundations, with certain “record-keeping requirements” and to periodically inform the FSA of any “continued non-compliance” by the specified entity. In cases of non-compliance the registrar may impose financial sanctions on the IBC.

Depicted hereunder are notable changes made to the legal framework of the IBC Act;



- **Piracy**

A number of isolated media reports have suggested a tenuous link between piracy that has historically affected the Western Indian Ocean (which reached its peak in 2010 and 2011), and East African terrorist/Islamic organizations in particular Al Shabaab¹⁰⁷. However the connection is not confirmed in any mainstream reports. Geographically, Al Shabaab and Pirates are largely based separately from each other. The Al Shabaab operates in the south-central Somalia where as the Pirates are mostly based around Puntland in northern Somalia. However, because of the large potential sources of funds that piracy can rake in, the principal military adviser to the U.N. special envoy to Somalia and head of the envoy's counter-piracy unit, Colonel John Steed noted, "There is a growing link and growing cooperation between al

¹⁰⁷[https://en.wikipedia.org/wiki/Al-Shabaab_\(militant_group\)](https://en.wikipedia.org/wiki/Al-Shabaab_(militant_group))

Shabaab who are desperate for funding and resources with other criminal gangs and with pirates. To date there are no links that Seychelles is used to finance terrorist activity

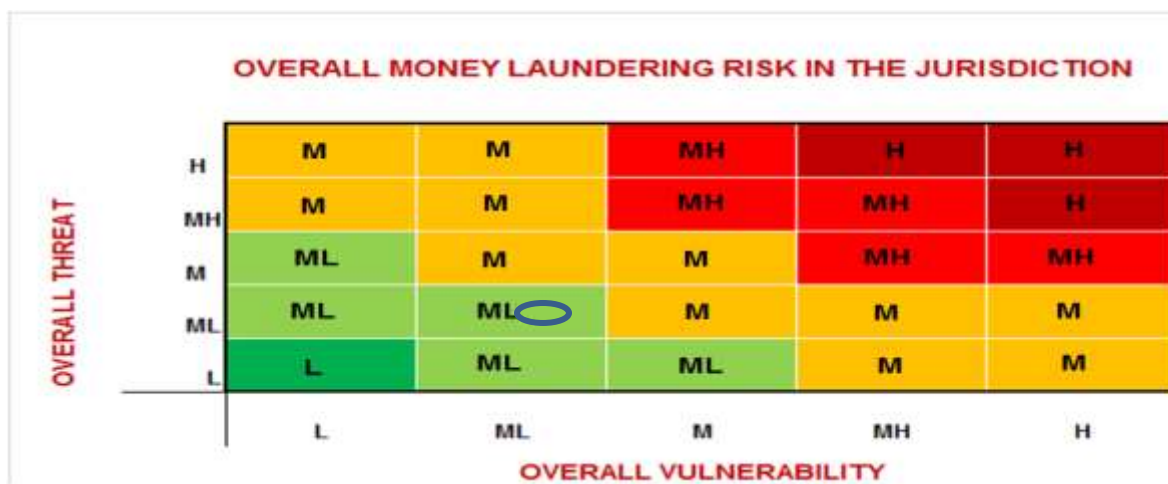
It should be noted that the threat of piracy in Seychelles has greatly abated over the past number of years as a result of greater policing of Seychelles waters. Having said that, on Monday the 13 March 2017 the Aris 13 oil tanker was hijacked by Somali pirates, ‘Raising fears Somali pirates could be back in action after almost five years’¹⁰⁸. Thus emphasizing the fact that acts of piracy remain a substantial threat and potential risks re-emerging.

That said, the perception is that an underlying vulnerability to TF risks persists in Seychelles primarily by virtue of its relative proximity to high risk TF jurisdictions, its limited resources as a tiny archipelago and its heavy reliance on tourism, fisheries and financial services sectors.

2.1.2 Overall Assessment of Terrorist Financing Risk

The overall **threat of TF** has been assessed as **low** while overall **vulnerability to TF** has been assessed as **medium-low**. Accordingly, the TF risk level in the country can be rated as **Medium-Low** according to the below map (Figure 1.0 below).

Figure 3: Seychelles risk map for identifying the risk level as a function of threat and vulnerability.



The main implications of the assessment results on the design of measures to mitigate the identified risks:

The assessment has provided the basis for a clearer awareness and understanding of the TF risk factors specific to Seychelles including potential threats and vulnerabilities. Additionally it has allowed a range of relevant stakeholders to identify the measures required to comply with the

¹⁰⁸ ‘After five years of silence, pirates hijack oil tanker off Somalia’s Coast’, Published 11:09 a.m. ET March 14, 20, USA TODAY Available at: <https://www.usatoday.com/story/news/world/2017/03/14/pirates-hijack-freighter-off-somalia-coast/99162004/>

substantive standards; for example, measures to protect the non-profit sector from the risk of abuse by terrorists. These are discussed further below. The assessment results should encourage a proactive approach to designing measures to mitigate the identified risks.

2.1.3 Terrorist Financing Threat Analysis

- *Estimated volume of terrorist financing and its main contributing factors.*

As set out above, the TF threat is **Low**. There are no known cases of funds generated in Seychelles being specifically used to finance terrorism domestically or abroad and no known cases of Seychellois terrorist fighters. There is, however, one example of property potentially related to terrorist causes, being seized and forfeited in Seychelles. This was the case of *Hackl v Financial Intelligence Unit (2010)*¹⁰⁹ whereby some US\$1.2 million, a Hotel, 5 parcels of land and 2 yachts was seized from a German national on the grounds that it represented proceeds from the sale of embargoed goods to Iran; namely heavy graphite which could be used in the production of missiles and nuclear warheads. In this case, the Seychelles Supreme Court ultimately relied on the provisions of the Treaty on the Non-proliferation of Nuclear Weapons and the United Nations Human Rights Charter, both of which Seychelles had ratified, in granting a disposal order under which [the property] was forfeited to the State in accordance with section 5 of the Proceeds of Crime (Civil Confiscation) Act 2008¹¹⁰.

In the instances of Fraud related cases, the best example being ATM fraud which has increased in recent years, there are no known cases of the funds generated from this criminal activity being intended for the financing of terrorism either domestically or abroad. While there is the belief that the perpetrators involved are members of international crime syndicates, a concrete link has, thus far, not been established with terrorist organisations.

The same is true for cases of Piracy in Seychelles. There is an awareness of the threat and the potential link with terrorist organisations, including Al Shabaab in Somalia. In particular, the Working Group discussed the arrest and conviction in Belgium in 2013 of an alleged influential leader of the Somali based Hobyo-Harardhere Piracy Network. Open source reports allege that 5 percent of his ransom profits were paid to Al-Shabaab as a security fee¹¹¹. There is no evidence to suggest that any pirates investigated and/or convicted in Seychelles had or have links with the said Hobyo-Harardhere Piracy Network or any terrorist groups. As such, these cases cannot be categorized as TF cases. There is, however, a general awareness of the threat and it is thus constantly being monitored.

2.1.3.1 Terrorism Threat Analysis

The level of the underlying terrorism threat and its characteristics.

¹⁰⁹ Case Ruling available at: <http://www.seyii.org/sc/judgment/constitutional-court/2010/1>

¹¹⁰ <http://greybook.seyii.org/w/se/2008-19#!fragment//KGhhc2g6KGNodW5rxlVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdYXLEh8SgxKLEpMSXxLTEtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk=>

¹¹¹ https://en.wikipedia.org/wiki/Mohamed_Abdi_Hassan

The level of the underlying terrorism threat is low. There are no known cases of domestic based terrorists targeting home or foreign jurisdictions, and no known cases of terrorists on a global scale targeting Seychelles. No Seychellois are known to have connections to any terrorist group at this time. There are also no known cases of Seychelles being used as a transit point for terrorism.

At regional level, the islands of Mauritius (2 hour flight from Victoria) was placed on high terrorism alert in January 2016, when emails considered as threatening were sent to the Prime Minister's office. The information was confirmed by the Counter Terrorism Unit in Mauritius. The sender was identified as Ismael Soondrum a Mauritian who may have joined ISIS¹¹². Interpol was contacted to assist with the investigation. The Ministry of Foreign Affairs in Seychelles did not call for the country to be placed on any form of alert following this incident. In May of 2016, four gunshots were fired at the French embassy and at the Hotel Le Saint Georges in the Mauritius capital, Port Louis. Both locations are well frequented by Europeans. Graffiti found sprayed on the wall of the embassy linked the incident with the terrorist group ISIS.

Like Mauritius, Seychelles is an internationally recognized tourist attraction, particularly for European tourists. Al Shabaab, Boko Haram, Al Qaeda and ISIS all have a presence in parts of Eastern Africa or the Middle East which are in relative proximity to Seychelles. From a geographical perspective, it is believed that the main terror threat posed would come from Somalia, Madagascar (both roughly 1000km from Victoria) and Yemen (roughly 2000km).

As of now, the risk of other threats affecting the region such as piracy, kidnapping for ransom, violence linked to religious radicalization and cyber terrorism is considered very low; but the situation is being closely monitored.

2.1.3.2 TF Typologies (Risk Factors) Prevalent In Seychelles:

In broad terms, the Working Group has categorized the main TF typologies prevalent in Seychelles as follows:

- Customer and Economic behaviour (Financial Institutions and Offshore Businesses)
- Geographical Risk / Immigration
- NPO Sector

TF typologies were interpreted against a background where there is no known connection between Seychelles and the financing of terrorism. However, it is noted that because of the

¹¹²http://www.china.org.cn/world/Off_the_Wire/2016-01/23/content_37644078.htm

Seychelles proximity to high risk TF jurisdictions, the country's financial system could be vulnerable for TF if there were to be any engagement in transactions such as import/export with those countries.

2.1.3.3 Customer and Economic Behaviour

The underlying TF threat is low. We have little evidence of Seychellois having travelled to or having links with areas connected to terrorism (high risk areas) – or that those with links to such areas have travelled to Seychelles. Therefore a lot of the below becomes largely academic.

Note: the presence of a single indicator (of risk) should not be interpreted as an indication that established or reputable entities represent a higher risk of TF. For example, in the NPO sector these indicators should not be used to discourage/disrupt legitimate charitable activities

In accordance with applicable legislation, Banks, Financial institutions and IBC's (are required to consistently apply screening and enhanced CDD of customers (including NPO sector) prior to and during the establishment of a business relationship.

2.1.3.4 Account Opening

Information from the banking sector suggests that transactions between Seychellois accounts and high risk jurisdictions are extremely rare. While the ultimate beneficiary of any transaction can be difficult to verify, controls are in place to mitigate the risk of a connection with terrorism.

Prior to establishing business relationships, names are screened against designated individuals and entities subject to targeted financial sanctions and lists provided by EU, Office of Foreign Assets Control (OFAC) and UN. In cases where account openings are denied it is usually on the suspicion of money laundering, rather than terrorist financing. Control mechanisms are in place to identify and verify anything that would raise suspicion such as counterfeit documents, suspicious addresses or reasons for opening the account.

2.1.3.5 Economic Activity / Ongoing Monitoring.

For accounts already open, control mechanisms are in place to screen for remittances to or from high risk jurisdictions and to or from people on the above mentioned designated lists. In the case of businesses, the account activity is monitored against the stated purpose of the business / account.

Certain transactions, including cash withdrawals in foreign currency, over a certain threshold require a significant amount of paperwork, including justification of the purpose of the withdrawal. These are referred to management for ultimate approval, but to date no transaction has ever been refused on the grounds of TF suspicion. Travel related spending activity is also

monitored including risk factors such as sudden termination of account, and unexplained increases in deposits but to date no suspicions have been raised in the TF context.

2.1.3.6 Money Gram and Fraud

The use of Money Gram was identified as a potential risk. The majority of Money Gram transactions involve East African countries including Madagascar, where many Seychelles based employees come from. However the reasons underlying the transactions are always verified (to the extent possible) and in most cases concern transferring money ‘home’ to family members. As the costs of such transactions are high, the frequency and amounts involved are usually low, typically ranging from SCR 5000–10000. The Asian community tends to use UAE Currency Exchange or Western Union as a preferred means of transferring money abroad. Any suspicions regarding the reasons underlying the transaction are reported to the FIU. There is no “Hawala¹¹³” or similar service provider in Seychelles. ATM and electronic fraud is not uncommon in Seychelles¹¹⁴ and is a potential risk in the TF context, even though there is no evidence linking perpetrators to TF. In June 2016, the Seychelles National Assembly passed ‘an amendment to the penal code to criminalize fraud committed through the use of new technology concepts. The amendment carries tough penalties for offenders’¹¹⁵.

2.1.3.7 Geographic Risk Factors

From a geographical perspective, the main TF threats would most probably emanate from Somalia, Madagascar and Yemen where there is evidence of terrorism and deficiencies in AML/CFT emanating from a lack of robust institutional control.

Controls are in place in Seychelles to mitigate these risks. Visitors to the Seychelles are profiled using well established processes on arrival and suspicious profiles are monitored and checked with established liaisons. Evidence is that authorities very occasionally encounter false travel papers and documentation, usually produced in parts of Asia, with the apparent purpose of trying to smuggle refugees to the EU. Seychelles is deemed too small to accommodate refugees. Those attempting to access Seychelles by sea are repatriated in conjunction with the agent of the vessel. A visitor cannot stay in Seychelles for more than 3 months. Those who overstay their visitor’s permits are declared ‘prohibited immigrants’ and deported.

¹¹³Hawala is an alternative [remittance](#) channel that exists outside of traditional banking systems. Hawala is a method of transferring money without any actual movement. One definition from Interpol is that Hawala is "money transfer without money movement."

Transactions between Hawala [brokers](#) are done without [promissory notes](#) because the system is heavily based on trust. Read more: [Hawala](#) <http://www.investopedia.com/terms/h/hawala.asp#ixzz4emvlx9an>

¹¹⁴<http://www.seychellesnewsagency.com/articles/5307/Seychelles+parliament+passes+bill+to+criminalize+technology+crimes>

¹¹⁵<http://www.seychellesnewsagency.com/articles/5307/Seychelles+parliament+passes+bill+to+criminalize+technology+crimes#sthash.JMikJBOs.dpuf>

Seychelles is conscious of the vast area¹¹⁶ in which the 115 islands are scattered. All but four of the islands are uninhabited. Apart from incidences of piracy, the only recorded illegal activity on some of the ‘outer’ islands is poaching and drop offs for drug traffickers. In the event of any threat, the furthest of these islands from the capital, Victoria, can be accessed within 3 hours by air. The islands are not militarily protected except when there are high profile dignitaries present. Military radars are present on selected islands and cover 25% - 30% of Seychelles’ Exclusive Economic Zone (EEZ). There is always vulnerability due to the direct access to open sea.

2.1.3.8 Non-Profit Organisation (NPO) Sector

Presently there are 397 NPOs registered in Seychelles under the 1959 Registration of Associations Act. It is possible that there are other unregistered NPOs practicing but this is not certain.

The general view is that the all NPOs promote behaviour that is within the typical range of practices and beliefs within Seychelles. There is no evidence of radicalization or sympathy to extremist views. The focus of the majority of Seychelles NPO’s is on domestic rather than international issues. Foreign donations to NPO accounts are rare. Money flows are monitored for suspicious transactions, notwithstanding international experience of terrorist organisations exploiting NPO’s to access materials and funds.

Responsibility for regulating the NPO sector currently rests with the Office of the Registrar General, who is also responsible for running the companies and land registries. Resource constraints and outdated legislation mean that, as it currently stands the Registrar is not in a position to effectively monitor the financing of NPO’s. Furthermore, in March of 2016 when the TF Working Group attempted to contact the 397 registered NPO’s with surveys and questionnaires, only 24 responded. 103 could not be contacted meaning the address given when registering was false or they had changed address without informing the Registrar. As discussed further below, Seychelles plans to implement measures to improve regulation, including revising the legislation to comply with the obligation contained in FATF Recommendation 8¹¹⁷. COMESA has engaged the services of a Consultant to conduct a review of this sector and make amendments to the legislation.

2.1.4 National Vulnerability to Terrorist Financing

Vulnerabilities

1. While all relevant legislation (including Regulation 2015 dealing with the process of UN sanctions and 2016 Prevention of Terrorism Act enacted in March 2016 updating

¹¹⁶The landmass is only 459 km², but the islands are spread over an Exclusive Economic Zone of 1,374,000 km². About 90 percent of the population of 90,000 lives on Mahé, 9 percent on Praslin and La Digue.

¹¹⁷ Details can be accessed at: <http://fatfplatform.org/recommendation-8/>

the existing legislation), has been enacted in line with FATF Recommendation 5, cases have yet to be tested in court due to a lack of experience in addressing the incidences of TF.

2. The Penal code requires updating
3. The Registration of Associations Act 1959 requires revision
4. While the country has a National CFT Committee, lack of experience in addressing the incidences of TF and the lack of the capacity of reporting entities to comply with UN Security Council screening requirements remains a gap that could increase the vulnerability to TF activities.
5. With regards to the adequacy of the financial resources allocated to TF investigations and broader research on TF within the country context, Seychelles lacks the ability to carry out TF typologies relative to the country and the region.
6. Mutual legal assistance requests is another area where gaps exist in that the applicable legislation requires requests to go through the Department of Foreign Affairs (DFA) who in turn forwards the requests to the appropriate authorities. The DFA is however, not in a position to establish a classification for each of the requests i.e. whether it relates to 'Threat of TF/Terrorism', mainly because it is not within its statutory functions. Furthermore, the quality of the requests themselves usually hinders the efficiency of the gathering of information.
7. Geographic and demographic factors that may facilitate TF and increase its vulnerability to the same include the inability, due to limited resources, to monitor the 115 islands that span over 1.2 million square kilometres of ocean; and the high incidence of youth unemployment and drug abuse.

Notwithstanding the above vulnerabilities, to-date Seychelles has not received or processed any ML requests that relate to funding of groups such as Al Shabaab, Al Qaeda, ISIS and other known terrorist groupings, or even piracy linked to terrorism. The overall vulnerability to TF is rated as Medium-Low. (A detailed breakdown of the vulnerabilities can be seen at Annex 20)

The below should be read in conjunction with the threats outlined above.

2.1.4.1 Limited Resources

Seychelles is a tiny, isolated jurisdiction with very limited resources. Its primary challenge is to run a nation state, with all relevant overheads, on constrained budgetary resources. As such its constant challenge is to balance resources against needs. As discussed above for example,

limited resources assigned to the monitoring of the entities within the NPO sector has been a historical obstacle to timely access to information in that sector. Formal mutual legal assistance requests have been more problematic in practice because of the scarcity of resources.

While the statutory framework exists, there is a need to assign more resources to achieve greater coordination between the Ministry of Foreign Affairs, the Attorney General's office (the competent authority), and the FIU, coupled with a requirement for dedicated resources and enhanced IT capability in the Attorney General's office. A current lack of resources can lead to certain delays, particularly with incoming requests involving financial intelligence which need to quickly reach the FIU for processing.

2.1.4.2 Lack of Awareness and Expertise

As Seychelles takes a risk-based approach to money laundering in general and consequently to TF, there is a limited awareness of TF as a distinct risk requiring proactive information sharing. Domestic counter-terrorism activities are conducted covertly and leverage assets and operational capacity deployed on broader tasks such as AML, anti-narcotics, enforcement, immigration, etc. The absence of a dedicated anti-terrorist unit with statutory powers contributes to the lack of general awareness of the most likely sources of TF threats. There is a dearth of CTF-related expertise across the board in Seychelles emanating from an absence, to date, of TF activity. There is no practical experience of the "red flags" etc... Furthermore, TF legislation has never been challenged in court. Capacity building and training in detection and prosecutorial techniques would assist in raising awareness.

2.1.5 Deficiencies and Gaps in Data Collection

Accessing information on TF risks in Seychelles has been difficult, due largely to a lack of resources and to a lesser extent, coordination between agencies. Additionally, Seychelles does not headquarter many (if any) multi-national companies. Local subsidiaries of foreign entities are expected to comply with information sharing obligations, regardless of the policies of their head office. This has caused some issues in practice in relation to record-keeping and file management policies of international banks, particularly as regards immediate accessibility of records by the Seychelles authorities.

The historical lack of electronic records is a significant obstacle to efforts to aggregate and analyse bulk data, both within the FIU and across government. This situation was evident in the case of the Company Registration office. Most government agencies are not fully digitalized and a lot of information are kept in physical files. Some of the electronics records available are not kept centralized for easy access and the system used by these agencies are sometimes not adequate enough to process and analyse bulk information.

If the information that is available, it can be said that there exists a good level of cooperation and information sharing between organizations / government agencies that have an MOU in

place but the process is mainly done upon request. The process for automatic exchange of information is very limited.

The absence of any investigations and prosecutions in the TF context means there is a ‘data gap’ in terms of real life examples. Furthermore, Seychelles has not so far received any foreign requests for designation under UNSCR 1373 and there have been no domestic designations under the Prevention of Terrorism Act. It is not therefore possible to comment on information sharing experience in this context.

2.1.5.1 Lack of Statutory National Intelligence Agency

There is no statutorily created national security or intelligence agency in Seychelles so practice in that regard is necessarily informal, although there was discussion of a possible creation of one by statute. Such a cell, it was deemed, would seek to monitor national security threats, including terrorism and to unify information from disparate agencies and services in order to detect and investigate incidences. This, proposal, however, is yet to be tabled but it is recommended that should it go through it should be for a stand-alone agency under the Prevention of Terrorism Act by the end of 2018.

Information sharing and Mutual Legal Requests (MLR’s)

In accordance with applicable legislation (Mutual Assistance in Criminal Matters Act, 1995¹¹⁸) the Department of Foreign Affairs (DFA) forwards requests for assistance in legal matters to the relevant agencies. In most cases the Attorney General’s Office functions as the executing authority, especially for requests related to criminal procedures in preparatory phase. A limitation to the scope of this work is that the DFA is not and will not be in the position to establish a classification for each of this requests, i.e. whether it relates to ‘Threat of TF/Terrorism’, mainly because it is not within its statutory functions. The quality of the ‘request’ itself usually hinders the efficiency of the gathering of information. Requests which omit information, documents or are not translated in official languages of Seychelles, hinder attempts to complete records/database. Outgoing requests are less frequent and are also processed by the DFA.

¹¹⁸<http://greybook.seylii.org/w/se/CAP135A#!fragment//KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjcm9sbEPEiMSKOiFuxKdlYXLEh8SgxKLEpMSXxLTEtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk>

2.1.5.2 Geographic Vulnerabilities (to be read in conjunction with geographic risks identified above)

There is no visa requirement for Seychelles and this is a potential vulnerability from the TF context. Visitors from EU Schengen States are normally issued visitor's permit up to three months at a time in accordance with existing agreement with Schengen states. There are two Points of Entry i.e. the Seychelles International airport at Pointe Larue and the Mahé Quay in Victoria. Upon request special permission may be granted for immigration officers to board and clear incoming/outgoing vessels/aircrafts at other islands of Seychelles. While screening processes are considered robust and in line with international standards, there is always a geographic vulnerability in Seychelles due to its exposure to sea, its inability to effectively monitor its 115 islands and its proximity to high risk jurisdictions.

2.1.5.3 Customs Checks at Airports

As it stands, customs officials do not have the capability to effectively screen for cash at entry points to Seychelles due to a lack of appropriate technology. This leaves Seychelles exposed to being used as a transit point for the illegal smuggling of cash into the country. It should, however, be noted that the experience of the local authorities to date is that cash seized at entry points to Seychelles is related to money laundering and drug trafficking with no connection to terrorist financing. The Seychelles Revenue Commission was considering the acquisition of new pallet scanners that uses modern technology to be installed at the port to check cargo coming into the country. There has been no further update on this issue to date. A review of the technology being used at the airport should be considered to improve detection and smuggling of cash through passenger air cargo.

The Prevention of Terrorism Act (PTA) 2004 was consolidated to 31 December 2015¹¹⁹.

2.1.5.4 Social Demographics

According to research, 'alienation from the dominant culture, thanks partly to joblessness and discrimination in blighted neighbourhoods; a turn to petty crime, which leads to prison, and then more crime and more prison;¹²⁰ religious awakening and radicalization; widespread drug use and related crimes of theft exposes the vulnerable (youths in particular) to potential radicalization through incarceration. In Seychelles, there is widespread drug use and petty theft; however, there is no evidence to suggest that radicalization is an active threat in Seychelles.

While there was a degree of political instability during and following a closely fought 2015 presidential election (the result of which was challenged in the Constitutional Court), and prolonged during the following National Assembly elections on 8-10 September 2016 whereby

¹¹⁹<http://greybook.seylli.org/w/se/2004-7#!fragment//KGhhc2g6KGNodW5xIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xjYnLHNjcm9sbEPEiMSKOiFuxKdlyXLh8SgxKLEpMSXxLTetsSHU8SQdELEpFJFTEVWQU5DRSx0YWl6dG9jKSk=>

¹²⁰https://www.nytimes.com/2015/01/26/opinion/the-mill-of-muslim-radicalism-in-france.html?_r=0

the ruling party lost the previously held majority in the National Assembly to the opposition¹²¹, many assumed that there was a great potential for institutional instability in the aftermath which could have created the vulnerability to terrorist financing, this did not happen. Hence the political climate is considered a very minimal vulnerability.

2.1.6 Key strengths

- I. Robust legislation
- II. Implementation of UNSCR
- III. Strong track record in civil forfeiture proceedings
- IV. Specific bodies adequately resource to prosecute financial crime
- V. Well-resourced FIU / AGO
- VI. Small size of jurisdiction facilitates monitoring of threats/information sharing
- VII. Signatory to (and willingness of judiciary to implement) international treaties
- VIII. Flexibility and willingness to implement

2.1.6.1 Robust Legislation and a Strong Track Record in Asset Seizure

All persons in Seychelles are obliged by section 35 of the PTA Act 2004¹²² to report all property or transactions connected with terrorist groups (which the FIU can then take immediate action to freeze). Suspicions of financing of terrorism must also be reported to the FIU under the Anti-Money Laundering Act¹²³, which triggers an automatic and immediate 10-day freeze pending investigation (section 10(1) (c) of the AML Act). There are provisions thereafter for a 180-day freeze issued by the FIU (section 10(4) of the AML Act), which can be subsequently extended upon application to the ordinary civil courts (section 10(7) of the AML Act). The “general prohibition to making assets available to designated persons or entities” is provided for in the Prevention of Terrorism Act 2004, not the AML Act.

The recently enacted Prevention of Terrorism Regulations 2015¹²⁴ brings Seychelles in line with its evolving international obligations for the purpose of, inter alia, ensuring that assets of internationally designated terrorist entities (including natural persons) within Seychelles are identified and frozen without delay.

Specifically as regards key FATF recommendations¹²⁵, the 2015 Regulations provide for:

¹²¹ Report on the Conduct of the National Assembly Elections 2016, Electoral Commission, Seychelles

<http://www.ecs.sc/downloads/report/NA%20ELECTION%20REPORT-Final%20format.pdf> p. 23

¹²² Reporting obligations under the Prevention of Terrorism Act, 2004 extend to all persons in Seychelles, not only to reporting entities.

¹²³ Anti-Money Laundering 2006, Consolidated to 15 December 2015, Available at: <http://greybook.seylii.org/w/se/CAP9A>

¹²⁴ Full title is Prevention of Terrorism (Implementation of United Nations Security Council Resolutions of Suppression of Terrorism) Regulations, 2015 (SI 39/2015)

¹²⁵ Contained in the FATF/PLEN(2015)36 draft report

- The immediate freezing, until further notice from the FIU, of all property within Seychelles which is identified as property of UN-designated individuals or entities (see regulations 13 and 14).
- A clear and comprehensive process to ensure that UN and domestic designations are proposed, considered, disseminated and implemented without delay under the oversight of a specially constituted National CFT Committee (see Part II to Part IV).
- Criminal sanctions (fine or imprisonment) for non-compliance with any provision of the Regulations (see regulation 23).

Additional measures in the form of amendments to the Prevention of Terrorism Act, 2004 have been approved by cabinet and are awaiting parliamentary ratification. These additional measures provide for:

- Criminalizing the financing of individual terrorists for any purpose without requiring a link to a specific terrorist act
- Criminalizing the conduct outlined in UNSCR 2178¹²⁶
- Providing for a new definition of “entity” which expressly provides that the term includes “natural person”, “legal person” and “legal arrangement” and amending existing or introducing new definitions of (inter alia) “terrorist”, “terrorist act” and “property” to remove ambiguity and align it with the PTA Regulations, the FATF general definitions and the AML Act.
- Amending the terrorism-related offence provisions to include fines as an alternative sentence in the case of offending by legal persons such as companies.
- Updating the core terrorist financing offence so that it is not necessary that the funds be linked to a specific terrorist act
- Providing for a new specific offence for the financing of terrorism-related travel.
- Providing substantial criminal penalties for deliberate breach of the targeted financial sanctions regime established in the PTA Regulations.

2.1.6.2 An Effective FIU with Wide Ranging Powers

The current statutory framework already vests broad powers in the FIU (a hybrid administrative/law-enforcement FIU¹²⁷) to receive information in support of TF related investigations and to disseminate that information to other operational authorities (both nationally and internationally). This includes full access to banking, financial and government records without the need for a Court order. The FIU has the power to request information on TF from any reporting entity (outside the STR process) and from any other supervisory authorities or agencies. Because of its wide ranging powers and efficacy, the FIU has as of

¹²⁶http://www.un.org/en/sc/ctc/docs/2015/SCR%202178_2014_EN.pdf

¹²⁷ ‘The Seychelles FIU could be described as a hybrid agency dealing with both civil and criminal matters in ML/TF’ http://www.seychellesfiu.sc/#tab_about

2016 permanently forfeited assets worth a total of US\$4,751,333.30 and as of 31 December 2016 had frozen assets to the value of US\$18,227,262.20. This includes a total of USD 10.5 m administratively frozen under s 10 – the rest is amounts in respect of which we have s 4 interlocutory orders or restraint orders or pecuniary penalty orders (including the 5.1m SCR in Hubert Alphonse case).

In addition to the above, the following assets are frozen:

1. 30 vehicles (including the Mock and Alphonse case which are currently still under receivership so technically not forfeited)
2. Land – 2 parcels
3. 8 boats (including 1 yacht)
4. Property – 1 apartment on Eden Island

In addition to this there are 4 cases with a value of approx. 2 million USD, where monies are frozen and in the process of being returned to victims and other jurisdictions (source of above figures: compilation from case files presented by the FIU).

In addition to the STR requirement for TF under the PTA Act 2004, financial institutions are required to make quarterly returns (also to the FIU) confirming that they do not hold any terrorist property.

The FIU is the primary contact point for international information sharing on CFT investigations and financial intelligence. The FIU proactively shares information over the Egmont secure net as well as through INTERPOL and/or other bilateral secure arrangements. It has independent authority under the Anti-Money Laundering Act, 2006 to disclose any report or other information it receives to any foreign agency with similar powers and duties to the FIU, for intelligence purposes only. Disclosure for evidential purposes requires the approval of the Attorney General.

The FIU also has power, with appropriate approvals, to enter into bilateral arrangements and agreements to facilitate regular international information-sharing, including in relation to TF.¹²⁸The FIU has since 2013 entered into 12 such agreements through Memorandum of Understandings with Angola, Kenya, Japan, Madagascar, Mauritius, Namibia, Panama, Russia, South Africa, Uganda, Zambia, Zimbabwe, including one with its counterpart in the United Kingdom in June 2015. More recently, in September 2016 the FIU signed an MoU with the Kingdom of Belgium (represented by the Belgium FIU), in a spirit of co-operation and mutual interest, to facilitate the investigation and prosecution of persons suspected of money

¹²⁸. The legal provision to enter into an MOU Agreement with an FIU in another country is provided for under section 16A(2)(b) Anti-Money Laundering Act 2006 (as amended). <https://www.seyllii.org/sc/legislation/consolidated-act/9a>

laundering and criminal activity related to money laundering or terrorism financing (ibid). In 2014, the FIU shared substantive information with approximately 90 jurisdictions. Seychelles was formally admitted as a member of the Asset Recovery Inter-Agency Network Southern Africa (ARINSA¹²⁹) in June 2016.

In practice, international information sharing for intelligence purposes often begins quickly and informally by email or telephone. At domestic level, the banks and corporate service providers in Seychelles each have representative bodies which engage actively with the FIU and other supervisors on policy, regulatory and law reform issues and which also facilitate information sharing internally within their sectors.

The FIU is also empowered to provide training and issue guidelines to reporting entities and more generally to “educate the public and create awareness” on matters relating to AML/CFT. A series of sensitisation sessions on Money Laundering and Counter-acting the Financing of Terrorism with the Seychelles Corporate Service Providers was conducted in July 2016, and in August 2016, an FIU sensitisation session was conducted for the Bar Association of Seychelles on "Money Laundering and Counteracting the Financing of Terrorism"¹³⁰. The FIU updated its general Guidelines for reporting entities in June 2015¹³¹, including an overview of CFT regulation and has issued several advisories on TF-related issues to supervisory authorities in the last year, for dissemination to private sector reporting entities, and also wrote detailed outreach letters to supervisory authorities and other key government agencies (including the Registrar of Associations, which regulates the NPO sector) following the promulgation of the 2015 PT Regulations.

2.1.6.3 Information Sharing Regarding:

a. Particular investigations

Information sharing between law enforcement agencies to support particular investigations tends to work effectively. The small size of the jurisdiction and the personal contacts between senior officials in different agencies facilitates monitoring and the circulation of early warnings where necessary.

b. Tourism sector

¹²⁹ARINSA is a multi-agency informal network between participating countries, to exchange information, model legislation and country laws in asset forfeiture, confiscation and money laundering, as well as providing training opportunities for both asset agents and prosecutors. http://www.seychellesfiu.sc/#tab_home

¹³⁰http://www.seychellesfiu.sc/#tab_home

¹³¹<http://www.seychellesfiu.sc/FIU%20Guidelines->

[Procedures%20for%20Reporting%20Entities%20Seychelles%20June%202015.pdf](http://www.seychellesfiu.sc/FIU%20Guidelines-)

The Ministry of Tourism (MoT) provides guidance to tourism service providers on tourism risks, including threats posed by thefts, burglaries and possible piracy activities¹³². The Risk Management Section (RMS) of the MoT receives information from various local agencies including Seychelles Maritime Safety Administration (SMSA), Police, Health, Division of Risk and Disaster Management (DRDM) and the private sector, and disseminates relevant information to its stakeholders. The information relates to precautions to be observed by visitors, for example warnings in relation to piracy. The RMS conducts risk awareness sessions to all tourism establishments and businesses. An annual risk assessment is done based on incidents which occurred during the year.

2.1.6.4 Flexibility and Willingness to Comply With International Standards

Following the efforts done to reform the system of information exchange internationally, Seychelles has been accepted by the OECD as a country that is ‘largely compliant’ with the standards of the Global Forum on exchange of information.

Seychelles is also committed to the National Risk Assessment and will continue to remain vigilant in the exercise.

In order to continue with the reforms necessary to ensure that the financial sector will continue to offer opportunities for all Seychellois, it is imperative that Seychelles also modernizes its current legislation. There is ongoing work to finalise a new act on “International Business Companies” which adopts certain basic principles to prevent the risk of money laundering, while at the same time allowing for a structure of continuity for the sector, together with a new act on “Trusts” and on “Global Business Companies” which will allow Seychelles to better adapt with global regulations and at the same time, create opportunities within the sector.

The current reform process demonstrates the strength of political commitment within Seychelles to comply fully with its international commitments regarding the threat of terrorism and terrorist financing. It is anticipated that the current round of amendments will bring Seychelles into full technical compliance with FATF Recommendations 5, 6, 7, and 8 in advance of the Mutual Evaluation. There is now a National CFT Committee (established under the PT Regulations in August 2015) that stands ready to sponsor and support all necessary future action. Additionally, the ‘Iranian weapons’ case discussed above demonstrates the willingness of the Seychelles authorities and judiciary to use the necessary means, including recourse to international treaties, to seize the proceeds of illegalities potentially related to TF.

¹³² As was related during the interviews conducted for the purpose of the NRA.

A comprehensive analysis of the factors that determine the level of TF vulnerability can be viewed at Annex 20.

Below are some promising potential actions to address the deficiencies uncovered, the challenges and deficiencies.

2.1.6.5 Legislative and Institutional Reform

An updating review of the Anti-Money Laundering Act, 2006 has been in progress for some time. Domestic Information sharing is one focus of these amendment initiatives. The National CFT Committee, established under the PTA Regulations in 2015¹³³, has been specifically mandated to lead the information sharing process in future. The multi-agency representation on this committee and its informal and flexible operating structure should ensure that information exchange is timely and effective. The Committee has representation comprising of The Minister of Home Affairs as the Chairperson, the Minister for Finance, the Attorney General, Commissioner of Police, Director FIU and a secretary as nominated by the Chair¹³⁴. Additionally, the FIU signed in October 2015 an MOU on Cooperation between Regulators of the Financial Services Sector' with the Central Bank of Seychelles and Financial Services Authority which is helping significantly in encouraging proactive information sharing with those agencies.

The process of updating the NPO legislation has begun. A committee of national stakeholders, led by the FIU and Registrar General, was established in June 2016. The Committee has discussed the requirement to comply with the technical elements of Recommendation 8 and effectiveness against Immediate Outcomes 10. Along with further policy support, resourcing, and awareness-raising, this is expected to assist in enabling efficient monitoring of the entities within the NPO Sector. COMESA has engaged the services of a Consultant to conduct an overview of this sector as well as assist with a review of the NPO legislation.

More broadly, there is a need to strengthen the counter financing of terrorism in line with FATF guidelines and to develop procedures to respond to requests under UNSCR 1373.

2.1.6.6 Record Keeping

Internal electronic records are only beginning to be maintained consistently across the different agencies. This is principally due to a capacity/resourcing issue. The FIU for example is currently in the process of introducing a centralised electronic file management system to assist in collating all information provided in electronic format by reporting entities.

¹³³Prevention of Terrorism Act, 2004 – Part II Implementation Committee <http://greybook.seylii.org/w/se/2004-7#!fragment/zoupio->

¹³⁴<https://www.seylii.org/sc/legislation/si/2015/39> accessed on 16/02/2017

2.1.6.7 Trainings Organised

A series of sensitisation sessions on Money Laundering and Counteracting the Financing of Terrorism with the Seychelles Corporate Service Providers was held on 21, 22, 28 & 29 of July 2016, at the training unit of the Central Bank of Seychelles¹³⁵.

An FIU sensitisation session with the Bar Association of Seychelles on "Money Laundering and Counteracting the Financing of Terrorism" took place on Friday 26th August 2016 at the Palais de Justice, on Il du Port, Seychelles¹³⁶.

2.1.6.8 Addressing Cyber Terror

To date, no cyber terror attacks have been identified in Seychelles however, the Department of Information & Communications Technology (DICT¹³⁷) are currently working on finalizing the draft Cyber Security Policy and Bill availing of input provided by the Commonwealth Secretariat. It is expected that the policy as a minimum will be completed this year (2017) followed by the Bill.

In terms of other initiatives on the operational level:

1. The DICT has started to put in place the Government of Seychelles Cyber Emergency Readiness Team (GOS CERT) (with equipment / training obtained from a COMESA project). It is envisaged in the near future to place dedicated people to man the GOS CERT.
2. DICT has also extended their technical contract with Microsoft to include the provision of Enterprise Threat Detection (ETD) services. This allows the Department to independently have proactive detection of threats in addition to reactive interventions when breaches occur;
3. DICT has security audits carried out on the External Gateway Network (EGN) core around every 2 years. These are carried out by external parties and findings are acted on;
4. DICT has put in place several Information Technology (IT) Security Policies at operational level on the EGN and these are essentially aligned to the ISO Information Security Standards¹³⁸. These actually allowed DICT to pass the different requirements for it to handle FATCA and OECD CRS data exchanges. Hence allowing the SRC to be compliant with these since DICT provides their key infrastructure and systems.

In terms of anticipated developments DICT has the following:

- i) after the policy and bill are in place it will initiate the creation of a National CERT which will be multi-stakeholder, requiring that capacity and specialised units be set

¹³⁵<http://www.seychellesfiu.sc/>

¹³⁶ibid.

¹³⁷ DICT has responsibility for the cyber security of Government systems (the ones on EGN)

¹³⁸The ISO/IEC 27000 family of standards helps organizations keep information assets secure. <https://www.iso.org/isoiec-27001-information-security.html>

up in law enforcement agencies (LEAs) having competencies to address cyber security / cybercrime issues.

- ii) DICT is also targeting getting formally ISO certified in information security and also further building up its cyber security specialists to be certified appropriately.

A list of recommendation for this sector can be found in Annex 1, whilst the proposed Action Plan for the Terrorist Financing Sector can be found at Annex 7.

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ANNEXES

Annex 1: Recommendations

Recommendations for ML Risk and Vulnerability at the National Level:

1. A detailed action plan for the national AML/CFT was drawn up with specific sections detailing actions for each of the specific items identified. However, for the purpose of summarizing the following issues discussed below have been identified as requiring attention.
2. The AML/ CFT Committee should be formalized with a clear mandate established under legal binding instrument. There should be greater consultation between the committee and the agencies involved in the implementation of policies and strategy to be decided by the Committee.
3. The capacity of financial crimes investigators, prosecutors and judicial officers have been identified as a problem area.
4. The Authorities, therefore, need to prioritize training on AML/CFT to officers within the NDEA and the Police, to Prosecutors from the AG's Office and Judges presiding over the financial crime cases. Authorities should also consider the allocation of additional resources to the investigation of financial crime cases.
5. The Companies Ordinance 1972 also needs to be amended and modernized in line with the FATF Recommendations 24 and require all companies in Seychelles to fully identify and maintain up to date information on beneficial owners.
6. It is recommended that the current tax enforcement system reviews relevant pieces of legislations with a view of making it more effective and efficient.
7. It is also recommended that supervision of the motor vehicle, real estate and attorneys and notaries is enhanced to ensure that the preventative measures under the AML Act are being implemented by the market players.
8. Finally it is essential that LEAs gather statistical information in a form and manner that will assist in updating the NRA.

Recommendations for Offshore Sector:

1. Revision of the AML Act to include provision which would allow for the imposition of administrative sanctions for AML breaches; or Empowering the FSA as the Regulator of the sector through amendment of the FSA Act, allowing it to;

- a. conduct inspection for AML matters;
 - b. have a wider range of administrative sanction for specific AML breaches such as introducing monetary penalty;
 - c. strengthening the current provision relating to the removal of critical staff and suspension/revocation of license; and
 - d. Imposition of sanctions for AML breaches.
2. Capacity Building for staff of the FSA, such as AML geared professional trainings with accredited institution or grouping (e.g. FATF, ESAAMLG, and OECD) and internship with other overseas AML competent Authorities, to give staff a better insight and understanding of AML matters and the application of the Law.
 3. Capacity Building of staff investigating AML Breaches (professional trainings and Internship with other overseas AML competent Authorities).
 4. Capacity Building of staff prosecuting AML cases (professional trainings and internship with other overseas AML competent Authorities); and
 5. Develop the capacity of the judiciary staff to handle AML related cases.
 6. In collaboration with the stakeholder, introduce Competency Standard for relevant staff whereby standards would be set in respect to minimum qualification, experience (AML related) by such persons including probity, competence and soundness of judgment.
 7. Impose obligations on CSPs to provide training to professional staff on an ongoing basis based on training needs analysis undertaken. And in cases of non-adherence to same, the introduction of administrative sanctions for such cases.
 8. FIU and FSA should intensify ML/TF training for its staff, to facilitate and monitor AML training of industry participants, which would allow for better understanding and appreciation of money laundering risk/s associated with businesses which may enable faster detection of ML risks / threats.
 9. In addition, where CSP's rely on third party to undertake CDD measures, CSP's should ensure that they are satisfied that the key staff of their counterparts are also adequately trained on AML issues.

10. In collaboration with the stakeholder, introduce an Internal Control System Guideline where the FSA shall prescribe the standards to be adopted by CSPs in respect to their compliance function.
11. FIU should undertake the necessary step (s) to specify the requirement deemed to be necessary for all Compliance and Reporting Officer which would include both the qualification and experience.
12. FIU should also assess the fitness and propriety of the Compliance and Reporting Officers to be employed within the sector; and
13. In collaboration with the stakeholder and competent Authorities, introduce a Compliance framework for CSPs where the FSA in conjunction with the FIU will prescribe the standards to be adopted by CSPs in respect to their compliance regime, which will address matters such as the appointment of compliance officer, independence of compliance function and the standard compliance framework to be adopted by CSPs.
14. For the FSA in conjunction with FIU to prescribe a standard system to be adopted by all CSPs to ensure that timely and effective methods are in place to detect integrity breaches.
15. Revision of the AML Act to include provision which would allow for the imposition of administrative sanctions for integrity breaches (depending on the severity of the breach).
16. Given volume of entities being regulated, both the FIU and FSA needs to increase their human capacity and technical resources which will enable it to have more effective supervisory and regulatory oversight of entities within the offshore sectors.
17. Capacity Building of On-Site examiners (undertaking relevant professional trainings and internship with other Competent Authorities) to ensure that technical staff possess good understanding and appreciation of Money laundering Risks, and are equipped with the necessary skills such as understanding of the nature of firms, clients and products being supervised.
18. The FIU to publicly make available periodic report to available on its website relating to information on enforcement action taken against persons that misuse the products available within the jurisdiction that will serve as a deterrent to individuals targeting Seychelles entities as a means to launder money; and

19. Providing stakeholders with an insight into its supervisory functions / activities of the FIU which will encourage for more transparency and impartiality, which may also positively influence the behavioural patterns of industry partakers.
20. Sharing information of the nature of STR's lodged by the reporting entity with other competent authorities and/or outcome of investigation undertaken which would allow the competent authority to initiate its own independent action without prejudicing the work of the FIU.
21. FIU should issue more guidance through guidelines or formal written communiqué to assist with building capacity for the monitoring systems of suspicious transaction of CSPs and improve staff knowledge for monitoring of ST.
22. FIU to review the AML act to introduce measures that require a CRO to undergo fit and proper assessment.
23. Enhancing of the licensing framework to strengthen the effectiveness of AML entry mechanism being employed to assess compliance of applicants, with AML requirements.
24. Build the technical capacity and knowledge of FSA staff in understanding of AML risks and build staff expertise in detecting money laundering risks upon licensing.
25. Strengthen consultation with Competent Authorities such as the FIU during licensing processes to allow for sharing of expertise in assessing the quality of AML controls proposed by applicants.
26. In view, that beneficial ownership has been introduced into the IBC Act 2016 making it a corporate matter for all IBCs, recommendation is made for FSA to commence inspection of the Beneficial Ownership Registers to ensure the availability of such information.
27. To review the Companies Ordinance Act 1972 to include the similar obligation like the IBC on the domestic companies to submit information on beneficial owners to the Registrar of Companies; or
28. Introduce a new concept of having an independent stand-alone legislation that would govern beneficial ownership for all legal person or legal arrangement formed in Seychelles.
29. The assessment of other AML control variables has revealed certain areas, which are deficient in the AML Act and should be reviewed, this includes:

- a. consider including provision for the imposition of administrative sanctions (such as monetary penalties, suspension and removal of critical staff) for regulatory breaches; and
- b. Measures to require CRO to undergo fit & proper assessment.

Recommendations for Banking Sector

1. To complete a comprehensive review of the jurisdiction's compliance to the BCPs.
2. Based on the results of the above review prepare an action plan to address deficiencies observed.
3. The CBS web site should show clearly what requirements are currently in place in relevant to AML/CFT legislation, regulations or guidelines. This should be done in partnership with the FIU so long as the FIU has supervisory role.
4. Formulation of training plan for CBS and FIU examiners to undertake on-site examinations of AML/CFT risk using a risk based approach.
5. FIU and CBS to provide adequate financial and human resources to build capacity to allow for effective AML/CFT examinations.
6. Enhance information that banks provide to regulators on an off-site basis. This will allow for creation of risk profiles of various banks and assist in the implementation of a risk-based framework.
7. FIU to update its policies, procedures and manuals for supervision in line with international best practice. CBS to finalize its AML/CFT examination manual and ensure that it is in line with best practice and consistent with FIU's examination manual.
8. Improve coordination and co-operation between CBS and FIU in the conduct of on-site and off-site supervision of banks. It is proposed that this is incorporated in a MoU between the two regulators.
9. To review the AML Act to evaluate whether administrative actions can be incorporated within same.

10. Building capacity within regulators and law enforcement agencies to successfully build a case against AML non-compliance.
11. Greater commitment on the part of regulators and law enforcement to prosecute in instances of AML noncompliance.
12. To review the FIA to evaluate whether monetary penalties can be incorporated for non-compliance to the relevant laws (applied to both institution and individuals)
13. Building capacity within regulators and law enforcement agencies to successfully build a case against AML non-compliance.
14. Greater commitment on the part of regulators and law enforcement to prosecute in instances of AML noncompliance.
15. Continue building technical capacity of staff especially in the area of evaluating AML/CFT risk when evaluating bank license application.
16. Conduct a review of the current framework for bank licensing against the core principle 7 to assess level of adherence.
17. Review section 5 and 6 of FIA to strengthen the process for licensing.
18. Review and enhance the 'fit and proper framework' for appointment of key personnel within banks. This includes expanding the scope of positions that require the regulators' approval and also greater emphasis on ensuring the qualifications and experience of those taking on key positions.
19. Assess the potential for introducing stricter requirements for banks to report suspected cases related to AML/CFT breach to the regulator.
20. The authority in collaboration with the banks should develop a capacity building plan to ensure bank staff are effectively trained.
21. Introduce requirements for all bank staff to undergo minimum training with regards to AML/CFT.
22. Regulators to ensure that banks have effective training programs for AML/CFT.
23. To issue a directive that all banks appoint a dedicated Compliance and Reporting Office (CRO) with appropriate qualifications and experience.

24. Banks to further enhance their monitoring system.
25. Further staff training to adequately monitor and investigate customer transactions. All banks to adopt a risk based approach for AML risk management.
26. All banks required to set up a fully-fledged compliance function with adequate resources with an independent qualified compliance officer.
27. Regulators to require that banks take actions against staff in breach of AML requirement.
28. To introduce requirements for banks to conduct periodical AML risk self-assessment.
29. Banks to further enhance their monitoring system and ensuring its features are more dynamic and risk based in nature.
30. Improve quality of supporting documents provided to support AML related transactions.
31. Improve staff knowledge in monitoring of transactions of PEP.
32. Staff training to allow them to fully use the features of monitoring software.

Recommendations for the DNFBP Sector

1. The FIU should provide AML training to the staff of all licensed operational Casinos and that this training should be documented in a log book as proof that training has been conducted. Most of the prioritized issues raised above will be sorted out once training has been provided.
2. Regulatory should conduct on-site inspections of all licensed operational Casinos.
3. Encourage casinos to Implement policies for the DD of high risk clients due diligence.
4. Encourage to change policies related to accepting charge backs.
5. Regulators should seek to learn from jurisdictions with experience of high numbers of junkets and land-based casino operations.
6. Regulatory should arrange to conduct on-site inspections as this sector has not been subject to inspections.
7. The FIU should provide AML training to the staff of all Accounting firms and that this training should be documented in a log book as proof that training has been conducted. During the training, they should be reminded of their statutory duty of submitting STRs on suspicious transactions.
8. All Accounting firms should appoint a Compliance and Reporting Officer (CRO) who will perform the duties as required under Sec. 15 (2) (c) of the AML Act 2006. This will include producing an AML/CFT Procedural Manual.
9. Accounting firms should have mechanisms which will facilitate the identification of PEPs and other high risk customers.
10. Arrangements should be made to provide accounting firms with copies of the UN Security Council's (UNSCR) designated terrorist lists.
11. Regulatory should conduct on-site inspections of all Accountants and Auditors.
12. Regulatory should arrange to conduct on-site inspections as this sector has not been subject to inspections.
13. FIU should provide AML training to the staff of all Motor Vehicle Dealers and that this training should be documented in a log book as proof that some form of training has been conducted. During the training, they should be reminded of their statutory duty of submitting STRs, retention of identification documents, etc.

14. They should appoint a CRO who will perform the duties as required under Sec. 15 (2) (c) including the production of an AML/CFT Procedural Manual.
15. They should have a mechanism that will facilitate the identification PEPs and other high risk customers.
16. The Seychelles Licensing Authority (SLA) should tighten the entry requirements for Motor Vehicle Dealers. Licenses should be issued for a period of five years and those that are not active should have their licenses revoked.
17. Regulatory should conduct on-site inspections of this sector.
18. The FIU should provide AML training to the staff of all Precious Metals and Stones dealers and this training should be documented in a log book as proof that training has been conducted. During the training they will be reminded of their statutory duty of submitting STRs on suspicious transactions, retention of identification documents, etc.
19. They will have to appoint a CRO who will perform the duties as required under Sec. 15 (1) (c) including the production of an ML/CFT Procedural Manual.
20. They should have mechanism that will facilitate the identification of PEPs and other high risk customers.
21. They should be provided with copies of the UNSCR Lists.
22. FIU Regulatory Section should conduct on-site inspections of this sector.
23. The FIU should provide AML training for all Real Estate agencies and this training should be documented in a log book as proof that some form of training has been conducted. During the training they should be reminded of their statutory duty of submitting STRs, retention of identification documents, etc.
24. The Real Estate Board should play a more active role in the supervision of Real Estate Agents to ensure that they are not engaging in illegal activities.
25. The Real Estate Board should hold discussions with the Real Estate Agents to discuss issues of mutual interest as well as compliance issues.
26. They should have mechanisms that will facilitate the identification of PEPs and other high risk customers.

27. Land Registry to ensure sanction is on file prior to effecting transfer and to improve speed of registering property.
28. Regulatory should conduct on-site inspections of all lawyers and follow up on previous inspections conducted.
29. A statutory body should be created to supervise its members and take punitive action for unethical actions and behaviour, the Bar Association has prepared a draft Bill for this purpose.
30. Once licensed, becoming a member of the statutory body should be mandatory and they should comply with the body's regulations and the requirements of the AML Act.
31. They should have mechanisms that will facilitate the identification of PEPs and other high risk customers.
32. Regulatory should conduct on-site inspections of this sector and follow up on previous inspections conducted.
33. The FIU should provide ML training to Boat & Yacht dealers and this training should be documented in a log book as proof that some form of training has been conducted. During the training, they should be reminded of their statutory duty of submitting STRs, retention of identification documents, etc.
34. Guidelines on licensing into this sector must be clearly defined.
35. They should have mechanisms that will facilitate the identification of PEPs.

Recommendations for the Other Financial Institutions

1. Ensure requirements on internal controls are at par with international standards and the AML act or regulations to require foreign branches and subsidiaries to apply AML/CFT measures consistent with the home country in accordance with the FATF recommendations.
2. The FIU to conduct more frequent examinations of these institutions to understand the ML/CFT risks associated with each entity.
3. The FIU to consider increasing the human resource capacity and/or document and implement a risk based approach to its supervisory function which will reduce the amount of staff/resources needed to conduct its supervisory function effectively.
4. Reassess the required/allocation of budget for the FIU to ensure proper operation and ensure it achieves its mandate effectively.
5. Develop and apply a comprehensive risk-based approach to supervisory program for onsite and offsite monitoring. This should consist of both spot-checks and regular cycles of examination of such reporting entities within specified timeframes and schedule should have regards to the level of ML/CFT risks associated with the institutions.
6. FIU to record examination results in a systematic way and to use these reports for policy purposes. To allow this to happen, the FIU has to ensure that examinations are conducted on a frequent basis. Examinations reports to be sent to Reporting entities in a suitable timeframe after the completion of examinations.
7. To implement administrative sanctions for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff and to ensure that these measures are applied when the need arises. FIU to also ensure that there is frequent dialogue with these entities both on-site and off-site. Examinations of these entities to be conducted on a more frequent basis also.
8. To implement administrative sanctions for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff and to ensure that these measures are applied when the need arises.
9. To implement and enforce administrative sanctions under the AML act and regulations for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff. In the interim,

where possible, the FIU and the CBS to collaborate and make use of provisions of the NPSA and FIA to enforce administrative sanctions against institutions falling under this category.

10. Criminal sanctions should be enforced where there are breaches of the AML act against reporting entities.
11. Criminal action against staff with regard to other financial crimes should be pursued by the FIU or appropriate authority concerned and powers should be clearly laid out in laws/regulations.
12. The FIU to ensure that investigations are conducted and criminal enforcement actions are applied to reporting entities under this category. Information gathered from STRs and from examinations conducted should be recorded in a systematic manner and used to inform investigations which eventually lead to criminal sanctions where it is applicable.
13. To ensure that training plans include capacity building in terms of AML risk such that staff possess a good understanding and appreciation of the money Laundering Risk associated with the activities of the supervised entities within this category. More frequent examinations of these institutions with AML risks in scope required.
14. PSD to implement manuals for processing of license applications for the institutions under this category.
15. Emphasis needed on fit and proper tests being done on key management positions within BDCs providing remittance activities within the FIA and NPSA. E.g. CFOs and Compliance Officers. Set out the Fit and Proper assessment procedure and criteria in manuals for Payment Service Providers.
16. To enforce strengthen and enforce requirement for Directors and key management staff within the sector to have the necessary educational and professional certification.
17. There is a need to include specific requirements within the Licensing criteria under the FIA/NPSA to ensure that licensees need to demonstrate adequate AML compliance controls are in place before being granted a license, including the need for risk-based AML compliance manuals and the appointment of well-trained, independent compliance officers depending on the level of risk associated with the institution's activities. The AML Act or regulations also needs to be strengthened in that regards.

18. FIU to coordinate the setup of necessary infrastructures that allows institutions to obtain necessary information for the vetting of staff before being recruited.
19. FIU to design and document more regular training programs tailored for different levels of staff and where possible should be accredited by a recognised AML training body. Entry controls/renewal of licenses under relevant laws/regulations should take into account the need for Institutions to provide adequate AML training to staff. Compliance officers to be appointed and should be responsible for designing and providing AML trainings internally within the institution.
20. As part of its supervisory activities, the FIU to undertake review of the Institutions compliance programs focusing on these requirements. To enforce compliance, the FIU should consider requiring such institutions to hire independent compliance and reporting officers based on the level of ML/CFT risk that the institution is exposed to in its activities.
21. The AML act needs to be amended such that it requires that reporting entities appoint independent compliance officers for such activities. This can also be applied on risk-sensitive basis depending on the complexity and the exposure of reporting entities to AML risk.
22. As part of the supervisory process, FIU to include the verification of these incidents and to ensure that necessary disciplinary actions are taken against the staff involved. Moreover, in view that often the same staff who have in the past committed breaches in such institutions are employed in other similar institutions in Seychelles, the FIU should seek to provide facilities for institutions to report these incidents and also have access to this information on recruiting of staff.
23. Entities under this category should be required to perform annual external audits with AML risk in scope. Policy for internal audits should also be documented which includes assessment of AML risk. This should be implemented and enforced by the FIU through its AML supervision of these entities.
24. The FIU to ensure that examinations of institutions are conducted to ensure that institutions put in place the necessary systems to allow them to identify and report such transactions in an effective manner. Moreover, regulators should consider to include as a requirement at the licensing stage that institutions have in place the necessary systems to allow for such screening and monitoring of transactions to be done.

Recommendations for the Section on Terrorist Financing

1. **Trainings and capacity building** (to include training on international guidelines, UN Sanctions and domestic legislation) to build stakeholder expertise in the relevant aspects of CTF. Also, training to emphasise the significance of MLA. Capacity building to focus on detection and prosecutorial techniques. This would also help to raise awareness. In this regards, the DFA shall continue maintaining close collaboration with Friendly States in particular those who are willing to share their know-how and expertise in the fight against terrorism. (For example France/la Réunion has recently offered its assistance to train Airport officers in order to strengthen security measures at Seychelles international airport in the event of a terrorist attack or a plane hijacking, a program called ‘Piratair’¹³⁹).
2. The availability of **international case studies** demonstrating effective procedures and models of domestic information-sharing in relation to a real life TF threat, with a focus on shared electronic resources, would be of assistance in demonstrating the need for improvements of this kind in Seychelles. In the absence of any experience of dealing with actual TF risks, the ability to refer to real life examples would provide a more tangible illustration of potential threats and the importance of procedures. It would also enable Seychelles to benchmark its procedures, (particularly with regard to proactive information sharing), against international best practice.
3. Re-visit and/or establish clear communication and procedural **guidelines between the investigation and prosecution phases of any future TF** related incidences in Seychelles. This is against a background where the FIU in co-operation with the Attorney General is increasingly seeking recourse to its prosecutorial powers in relation to regulatory breaches of the AML Act and stakeholders in the Working Group raised a concern as to how this type of procedure¹⁴⁰ would work in the case of prosecuting terrorist financing offences.
4. Establish a specific department within the AGO to oversee Mutual Legal Assistance (MLA). IBC’s are becoming increasingly hostile to requests to release information, and MLA is not prioritised under the current structure. The Mutual Assistance in Criminal Matters Act 1995 ‘applies to the provision or the obtaining of mutual assistance in

¹³⁹An international seminar on crisis management in aviation security was held throughout the week in Saint-Denis with the heads of staffs of the security forces / defense of the Indian Ocean (La Réunion, Mauritius, Madagascar, Seychelles, and Comoros). Lisez la suite sur FAGERS : <http://www.fagers.fr/2015/06/26/exercice-piratair-2015/>

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¹⁴⁰Guidelines on Anti-Money Laundering and Combating the Financing of terrorism Procedures for Reporting Entities in Seychelles, June 2015 Update, <http://www.seychellesfiu.sc/FIU%20Guidelines-Procedures%20for%20Reporting%20Entities%20Seychelles%20June%202015.pdf>

criminal matters in relation to an offence committed or believed to have been committed before or after the commencement of this Act¹⁴¹.

The role of Department of Foreign Affairs (DFA) and the relevant legislation in this respect requires re-examination. DFA identified that it is currently not and will not be in the position to establish a classification for each request received, i.e. whether it relates to ‘Threat of TF/Terrorism’, mainly because it is not within its statutory functions¹⁴². The quality of the ‘request’ itself also tends to hinder the efficiency of the gathering of information. The above factors do not allow the DFA, to fully complete their records/database, and disseminate the information received in an efficient manner. There may be a need to create a specialized structure within the DFA whose responsibility will be to liaise directly with the Terrorist Financing Committee and to assist the latter on matters related to MLA and International Terrorism.

While the statutory framework exists, there is a need to assign more resources to achieve greater coordination between the DFA, the Attorney General’s office (the competent authority), and the FIU, coupled with a requirement for dedicated resources and enhanced IT capability in the Attorney General’s office. While communications between the three agencies are regular; there is always scope to improve and promote nationally between the key agencies, a more effective international information-sharing platform. It is also hoped that the efforts of the National AML/ CFT Committee and the National CFT Committee will assist in this regard.

5. Anti- Money Laundering Act 2006, section 34 (9)¹⁴³, makes provision for the search and seizure of cash by ‘ A member of the police, or an officer of customs or an immigration officer, notwithstanding that they might be an assets agent’ to search ‘without warrant a person, his luggage or other property in his immediate vicinity or recently in his possession and any vehicle belonging to him or in which he was to be found or nearby which is reasonably suspected of being connected to him, if the member of the police, or officer has reasonable grounds for suspecting that —

¹⁴¹ Mutual Assistance in Criminal Matters Act of 1995, Section 4 (2) available at:

<http://greybook.seylii.org/w/se/CAP135A#!fragment/KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OicnKSxub3Rlc1F1ZXJ5xJYnLHNjc9sbEPEiMSKOiFuxKdIYXLEh8SgxKLEpMSXxLTEtsSHU8SQdELEpFJFTEVWQU5DRSx0YWI6dG9jKSk=>

¹⁴²In accordance with applicable legislation the Foreign Affairs Department (FAD) forwards requests for assistance in legal matters to the relevant agencies. In most cases the AGO functions as the executing authority, especially for requests related to criminal procedures in preparatory phase.

¹⁴³http://greybook.seylii.org/w/se/CAP9A#!fragment/zoupio-_Toc461169797/KGhhc2g6KGNodW5rxIVhbsSHb3JUZXh0OnpvdXBpby1fVG9jNDYxMTY5N8SnKSxub3Rlc1F1ZXJ5OicnLHNjc9sbEPEiMSKOiFuxLIYXLEh8SxxLPEtcS3xYbFiMSHU8SQdELEtVJFTEVWQU5DRSx0YWI6dMSgKSk=

- (i) the person is importing or exporting, or intends or is about to import or export, or has possession or control of an amount of cash which is not less than the prescribed sum;

Section 34(1) (a) (i) amended by s 2(j) (i) (aa) of Act 24 of 2011 with effect from 27 December 2011

- (ii) the cash represents benefit from criminal conduct or is intended by any person for use in connection with any criminal conduct; and

Section 34(1) (a) (ii) amended by s 2(j) (i) (bb) of Act 24 of 2011 with effect from 27 December 2011

- (iii) the cash in excess of the sum prescribed under section 34A was not declared by person when entering or leaving the Republic.¹⁴⁴

6. Under the SI 39 of 2015 Prevention of Terrorism Regulations 2015, section 5 (1) (c)¹⁴⁵, the National Countering Financing of Terrorism Committee, is mandated to ‘advise the Registrar of Associations in protecting the non-profit organization sector from misuse by terrorist groups, in accordance with the Registration of Associations Act’ and the SI 39 Regulations referred to above. In terms of terrorism, there have been no identifiable threats posed by non-profit organizations (NPOs). Where religious groupings are concerned, the Constitution of Seychelles and other laws and policies protect religious freedom and, in practice, the government generally enforces these protections. Religious groupings are required by law to register either as a corporation or association and should register with the Ministry of Finance should the church require tax privileges¹⁴⁶. The main churches in the country include the Catholic, Anglican, and Seventh-day Adventist churches, along with mosques and the Bahai local spiritual assembly. Other faiths include Christian groups such as Baptists, Assemblies of God, Pentecostal Church, Nazarites, and Jehovah’s Witnesses and Hindus, though there may be others which have yet to register as associations or corporate bodies. Nevertheless, the Seychelles Interfaith Council (**SIFCO**¹⁴⁷) feels that stricter controls should be in place for registration of ‘new churches’. Having one registration mechanism for all religious bodies in the country will ensure better tracking and accountability mechanisms.

7. **Customs machinery** at airport (and ports) to detect cash

¹⁴⁴Ibid

¹⁴⁵ <http://www.seylli.org/files/SI%2039%20of%202015.pdf>

¹⁴⁶ SEYCHELLES 2015 INTERNATIONAL RELIGIOUS FREEDOM REPORT

<https://photos.state.gov/libraries/mauritius/882940/religious-freedom-report/seychellesirf2016.pdf>

¹⁴⁷ <http://www.nation.sc/article.html?id=233572>

There is a need to identify if the x-ray machine at the airport can be upgraded and settings adjusted to detect cash leaving and entering the country through passenger cargo. In the event that this is not possible it is advisable to invest in new and more modern technology that can detect cash and other financial instruments that can be used for payment of illegal activities. Seychelles Revenue Commission is in the process of acquiring pallet scanner that will be used at the port to check cargo coming into the country¹⁴⁸

8. As easy access to foreign currency can present a TF risk, **a limit on the amount of foreign currency one can withdraw** from a Seychelles Account is recommended. Under the current regime, Seychelles imposes no limit, which is in contrast to many other jurisdictions worldwide. While the banks can impose controls to monitor suspicious activity, it can be very difficult for them to establish a basis for prohibiting a withdrawal. In most cases the extent of the action they can take is limited to reporting suspicions to the FIU. When interviewed, certain banks also cited pressure from CBS to release foreign currency. Cash is also a preferred method of payment than Money Gram as the cost of transaction is less.
9. There is a need to review the co-ordination between FIU, CBS and banks regarding the management and monitoring of large accounts for **offshore** companies to ensure more effective monitoring of large accounts and suspicious transactions.
10. The FSC is responsible to take action to reduce systemic risks and enhance the resilience of the Seychelles financial system, while also supporting the economic policy of government. The committee also discusses regional developments with regard to terrorism and the threat to Seychelles of exposure to either attacks or the financing aspect with regard to AML and CFT endeavours. With an increase in the number of skimming cases locally on ATM machines the issue of cybercrime has come to the fore. The increased risk that money laundering in conjunction with cyber-crime, terrorism financing, and drug trafficking and tax fraud poses to the domestic financial system adversely affects the country's reputation, investment attraction and financial system¹⁴⁹. It is recommended that other sectors such as Tourism is invited on to the

¹⁴⁸Minister Pierre Laporte delivering the Budget Speech 2015 said: "SRC has made further progress in improving detection of tax evasion and smuggling. We are at an advanced stage of acquiring new technology to assist in improving detection, notably a pallet scanner for the sea port, in the context of our broader Customs modernization project" available at:

<http://www.nation.sc/component/content/article/46-news/national-assembly/243958-budget-speech-2015-by-the-minister-for-finance-trade-and-investment-pierre-laporte-on-december-15-2014.html>

¹⁴⁹<http://www.nation.sc/article.html?id=250123>

FSC as they can advise on terror threats and risks to the various sectors including tourism sector.

11. Setting up a national security alert system plan (similar to the French Plan Vigipirate¹⁵⁰) is recommended, whereby levels of threats (e.g. level 0: No danger; level 1: vague threat; level 2: possible threat; level 3: high chance of threat; level 4: definite threat) are represented by colours. Such information should be disseminated to all sectors and broadcast to the population on media. That way, the citizens of Seychelles but also the foreigners and tourists would be reassured knowing that such system exists and that a dedicated committee is being tasked to daily monitor the level of threat of terrorism in Seychelles.
12. While the national threat to TF is considered low, and the national vulnerability to the same is rated as medium –low, there is a need to remain vigilant. Whilst IBC’s are perceived to carry higher risk, the WG has established that IBCs are being subjected to stringent regulatory and supervisory framework whereby IBCs are required to maintain basic company information within the jurisdiction including Directorship information, Legal ownership information, Beneficial Ownership information, Accounting Records and in the event it is not being kept in Seychelles IBCs are required to keep a notification of where the Accounting records are being maintained. In cases of non-compliance the registrar may impose financial sanctions on the IBC; and since March 2015, CSPs are required to monitor compliance by specified entities and foundations, with certain “record-keeping requirements” and to periodically inform the FSA of any “continued non-compliance” by the specified entity. In cases of non-compliance the registrar may impose financial sanctions on the IBC.

Disqualifying Statement on TF it is a form of return even if it is a nil return it has to be submitted to the CBS every quarter all banks must submit the in confirmation that their banks do not hold any Terrorist group accounts and no transactions being conducted in this regard.

COMESA recently has agreed to sponsor a workshop/ consultant to do a review of the NPO sector towards formulating legislation towards updating the registration of

¹⁵⁰Vigipirate (French: Plan Vigipirate) is France's national security alert system.... The name "Vigipirate" is an acronym of vigilance et protection des installations contre les risques d'attentat terroriste à l'explosif ("vigilance and protection of installations against the risk of terrorist bombings") [Vigipirate - Wikipedia](https://en.wikipedia.org/wiki/Vigipirate)<https://en.wikipedia.org/wiki/Vigipirate>

associations' act 1959. As to date there is no proper supervision by the Registrar's Office

Annex 2: Non-Banking Financial (Offshore) And Fiduciary Services Providers (NBFFSP) Sector Action Plan

| S. No | Sources of ML Risk | Key Result Area | Detailed Action Steps | Party/Dept. Responsible | Date to Begin | Date Due | Status |
|------------------------|------------------------|--|--|-------------------------|---------------|-----------------------------|--|
| AML Knowledge of Staff | | | | | | | |
| 1.. | AML Knowledge of staff | <p>1. Continuous enhancement of knowledge of professional staff responsible for implementing the AML/CFT controls;</p> <p>2. For the sector to have a better understanding and appreciation of ML risks associated with business to increase the effectiveness of supervision.</p> | <p>Develop a code for fit and proper competency standard</p> <p>For the FSA to develop a code for fit and proper competency standard, to be adopted by all licensees licensed under the CSP Act which will set the required competency and capability for all person holding significant function in the office of its licensees i.e. All Directors, Managing Directors, Senior officers and Compliance Officer(s). Additionally to ensure that training remains relevant and updated the FSA will introduce the concept of continuous professional developments (“CPD”) which will be mandatory to be undertaken by all fit and proper person. The code to be implemented by April 1st, 2018.</p> <ul style="list-style-type: none"> • Compliance officer would be required to hold at a minimum a certificate in compliance, however depending on the complexity of the office, the CO may require a diploma; and • The concept of independent compliance function depending of the complexity of the office is to be introduced | FSA/ FIU/CSP | Feb 2018 | Mar 30 th , 2018 | The code has been developed and is currently in the consultation phase (industry) |
| | | | <p>The FSA to intensify ML/TF training for its staff through the undertaking of relevant course from ICA, ACCAM and ICSA; The FSA and FUI to facilitate and monitor AML training for industry participants, and ensure that at a minimum all staff undergoes minimum training with regards to 'AML/CFT which would allow for better understanding and appreciation of money laundering risk/s associated with businesses which may enable faster detection of ML risks / threats</p> | FSA/FIU | Jun 2018 | On-going | |
| | | | <p>The FSA to undertake joint onsite inspection with the FIU to;</p> <ul style="list-style-type: none"> • monitor licensee compliance with the AML/CFT requirement; and • increase FSA staff knowledge and understanding of key components that FIU on-site examination entails in regards to AML/CFT measures. | FSA/FIU | Aug 2018 | | |

| S. No | Sources of ML Risk | Key Result Area | Detailed Action Steps | Party/Dept. Responsible | Date to Begin | Date Due | Status |
|--|--|--|---|-------------------------|---------------|---------------|--|
| Effectiveness of Compliance Function | | | | | | | |
| 2. | Effectiveness of compliance function | To implement an effective compliance function that is comprehensive, risk-based and well-resourced with an independent AML compliance function for the licensees within the sector | Develop a code for Compliance standard and Internal Control for licensee | FSA | Feb 2018 | March 30,2018 | The code has been developed and is currently in the consultation phase(industry) |
| | | | <ol style="list-style-type: none"> 1. For the FSA develop a Code to assist licensees in having efficient and effective compliance standards, and sets out the minimum standards that the Financial Services Authority will use to assess the licensee's compliance with regulatory requirements. 2. Additionally, the FSA will impose the minimum qualification and experience for persons appointed in the position of Compliance officer; 3. For the FSA to develop a Code to assist and guide licensees in having adequate internal control system and sets out the obligations that the Authority will use to assess effectiveness of the systems. | | | | |
| | | | FSA to conduct joint risk-based on-site inspection with the FIU at the of the office of its licensees to assess the effectiveness of the licensees' internal control systems. | FSA/FIU | Aug 2018 | | |
| COMPANIES SPECIAL LICENSE – | | | | | | | |
| <p>Through Seychelles' commitment to comply with the Base Erosion and Profit Shifting (BEPS) standard of the OECD, the CSL regime will have to be amended to bring it in line with BEPS. Furthermore, the BEPS standard provides that, any income derived from assets or activities introduced in the CSL after the publication of the BEPS Report (i.e. 16th October, 2017) will not benefit with the preferential tax rates under Schedule 2 of the Act (i.e. 1.5% business tax rate and 0% Withholding tax rates). CSLs incorporated on or after 16th October, 2017 will only benefit the preferential tax rates under Schedule 2 of the Act up to the date the CSL Act is amended to cater for BEPS, which will not be later than June 2018.</p> | | | | | | | |
| 3 | Companies Special Licence has been assessed to be harmful per the Base Erosion and Profit Shifting (BEPS) standard | a. Comply with the (BEPS) standard of the OECD | Amendment to the CSL Act in relation to the following: Annual return and Accounts; removal on-disclosure obligations; Changes in respect to taxation benefits and expanding grounds for enforcement actions | FSA/AG | July 2017 | June 2018 | Draft bill in consultation phase |
| | | | Enactment of the amended CSL Act together with amended guidelines | FSA | | June 2018 | |
| Third Party Reliance | | | | | | | |
| 4 | | a. Provide expected standards to be employed | Conduct risk based joint inspection with the FIU to understand the trade practices vis-à-vis reliance on third parties for | FSA /FIU | Aug 2018 | March 2019 | |

| S. No | Sources of ML Risk | Key Result Area | Detailed Action Steps | Party/Dept. Responsible | Date to Begin | Date Due | Status | |
|-------|-------------------------------------|--|---|-------------------------|---------------|----------|----------------------------------|----------|
| | Reliance on third party for KYC/CDD | by licensees licensed under the CSP Act dealing through PI; b. Implement a structured system for testing of relationship between the CSP and the PI | KYC/CDD measures and identify practices that poses treat to the jurisdiction | | | | | |
| | | | Set up working groups; to prepare the policy paper and draft guidelines, prepare awareness tools, and monitor milestones per the agreed action plan | FSA/FIU/CSP | Nov 2018 | | | |
| | | | Send Policy paper for consultation with CSPs and incorporation of any suggestions / comments | FSA/FIU | | Jan 2019 | | |
| | | | Prepare the guidelines for dissemination to the industry and schedule meetings to update licensees on the proposed changes / standards. Update On-Site and Off-Site procedural manuals to reflect the change in policy and devise tools to monitor the adherence of licensees e.g. Returns to gather statistical information, tools to be used on-site | FSA/FIU | | Jan 2019 | | |
| | | | Train FSA staff:1) through relevant online courses e.g. ICA 2) In-house training on monitoring the compliance of the guidelines, 3) delivering awareness workshops | FSA | | | On-Going per FSA's training plan | On-going |
| | | | Define through MOU's 1)AML training beneficial to FSA 2)the responsibilities and powers of FSA & FIU in regards to monitoring and reporting of licensees' adherence to the guidelines Increase information sharing between FSA/FIU for the purpose of monitoring of third party reliance relationship of CSPs | FSA/FIU | Jan 2019 | - | | |
| | | | | | | | | |

Annex 3: Action Plan for the Securities Sector

| AML Knowledge of staff in securities firms | | | |
|---|-------------|--|---------------------|
| <p><u>Issue(s) identified:</u> FSA as a regulatory body has a mandate to set entry requirements and standards of practice applicable to its licensees so as to make a determination of whether the staff of the licensees are fit and proper. As part of this mandate, FSA in conjunction with FIU, should create manuals and/or update industry guidelines to include AML/CFT measures and sanction members for any non-compliance issues identified. Although FSA requires that licensees have an AML/CFT compliance manual there is no indication as to the areas that the manuals need to cover. It is believed that having an AML/CFT Competency Framework by FSA and having the necessary training will help towards developing a knowledge base for staff in securities firms.</p> | | | |
| Action | Lead | Implementation Issues | Completed by |
| Develop AML/CFT Competency Framework | | | |
| <p>1. Set specific mandatory requirements for MLROs:</p> <ul style="list-style-type: none"> - academic qualification - professional qualification - relevant work experience <p>2. Set specific mandatory requirements for company directors - that they have broad knowledge of AML/CFT regulatory requirements and issues.</p> <p>3. Set requirements for general staff - that they aware of AML/CFT regulatory framework and have knowledge of the internal AML/CFT procedures.</p> | FSA/FIU | capacity of staff (technical competency and availability) at both FIU and FSA | May 2018 |
| Implement AML/CFT Competency Framework | | | |
| Annual mandatory training on the adopted guidelines and the AML/CFT framework targeting the compliance staff of the licensees, the Board of the licensees, and senior officers of the licensees (relevant staff of the licensee where such a general training would be beneficial –for example. client facing staff). This is targeted as a general level training for trainees to understand the AML/CFT concerns of the sector. FIU as the relevant authority will coordinate the training. | | Budgetary constraints of FIU should such training be conducted by a third party; constraints of licensees to commit for all relevant staff to attend the training. | June 2018 |
| FSA to conduct risk-based supervision, with periodic offsite data collection and onsite inspection, to ensure that the AML/CFT competency framework is being complied with. Periodicity of supervision would depend on risk-grading of entities, but at minimum low risk-firms would be subjected to an onsite inspection every three years. | | Regulatory staff turnover | November 2018 |
| Effectiveness of compliance function | | | |

| | | | |
|--|----------------|---|----------------------|
| Issue(s) identified: The compliance function of licensees should be looked at as more than the MLRO filing STRs. Licensees should strive to adopt a compliance culture focusing on the AML/CFT areas of risk to the business and understand that the compliance function of the licensee does not rest solely on the compliance officers but rather that the ultimate responsibility rests with the Board of Directors. The area of AML/CFT is not static and as such AML/CFT compliance functions and programmes need to align with industry practice and regulatory expectations and that the risks are within established risk tolerances. | | | |
| Action | Lead | Implementation Issues | Completed by |
| Developing guidelines for AML Compliance Manuals - sector specific | | | |
| FIU in conjunction with FSA to review and identify problems in the existing Guidelines available for AML/CFT compliance to ensure such guidelines are sector specific. The output would be the adopted revised Guidelines (which include amongst others guidance on predicate offences and filing of STRs). Such adopted guidelines will be made publicly available on both the FIU and FSA website. | FIU/FSA | capacity of staff (technical competency and availability) at both FIU and FSA | August 2018 |
| Review AML Compliance Manuals of licensees | | | |
| FSA to conduct risk-based supervision, with periodic onsite inspection to ensure that compliance manuals and AML procedures are in compliance with the regulatory framework (legislation and guidelines) and ensure effective implementation of the procedures. Periodicity of supervision would depend on risk-grading of entities, but at minimum low risk-firms would be subjected to an onsite inspection every three years. Mandate that, at least one month in advance of implementation, amendments of the AML Compliance Manuals are submitted for review of the FSA. FSA and FIU to coordinate on the relevant enforcement actions to be taken against a licensee in instances of compliance breaches. | FSA | Regulatory staff turnover | November 2018 |
| Ensure that compliance function is adequately resourced and independent | | | |
| FSA to conduct risk-based supervision, with periodic offsite data collection (such as, but not limited to, the company's organogram, or budget allocated to compliance) and onsite inspection to ensure that compliance manuals and AML procedures are in compliance with the regulatory framework (legislation and guidelines) and ensure effective implementation of the procedures. Periodicity of supervision would depend on risk-grading of entities, but at minimum low risk-firms would be subjected to an onsite inspection every three years. FSA and FIU to coordinate on the relevant enforcement actions to be taken against a licensee in instances of compliance breaches. | FSA | Regulatory staff turnover | August 2018 |
| Review and ensure the effectiveness compliance function | | | |
| Require that at minimum the Board of directors conduct annual reviews of the AML/CFT compliance function and keep record of such reviews, to be made available to the regulatory Authorities. | FSA | None | March 2018 |

Annex 4: Banking sector Action Plan

Detailed Implementation Action Plan

Notes:

i) The structure of Template serves as a guide only. Jurisdictions may modify it to suit their own internal planning approach or use their own detailed planning templates.

ii) The number of the rows should be modified by Jurisdictions to meet the number of the detailed actions.

iii) Please refer to the outputs of the modules of NRA Tool to identify the sources of the risks and prioritize the actions.

| | Risk Ref | ML Risk | Key Action | Prime Agency | Secondary Agency | Detailed Action Plan | Remarks/ Implementation Issues | Time Frame |
|---------|----------|--|--|------------------------|----------------------|---|--------------------------------|---------------------|
| Ranking | 1.3.4 | Effectiveness of Supervision Procedures and Practices | (a) Segregate the supervision of AML/CFT to each sectoral regulator being CBS for the banking sector | National AML committee | Cabinet of ministers | Review the legislative framework in order to transfer the mandate for the AML/CFT supervision to the respective sectoral authority. | | Short term 3 months |

| | | | | | | | |
|--|--|--|---------|--|--|---|---------------------------------------|
| | | (b) Formulation and implementation of training plan for CBS examiners to undertake onsite examinations of AML/CFT risk using a risk based approach. | CBS | | <ul style="list-style-type: none"> - Identification of specific training needs - Request applicable training. - Where applicable request technical training assistance from external parties, i.e. IMF, COMESA and UNODC; | Availability of external trainers. Budget training constraints | Short to medium term 3 - 12 months |
| | | <p>(c) CBS to review human resources capacity relative to AML/CFT supervision.</p> <p>FIU to review human resources capacity relative to investigation of AML/CFT issues</p> <p>(budget allocation for staff).</p> | CBS/FIU | | <p>FIU and CBS to identify gaps in its resources and make recommendation to its Board for rectifying same.</p> <p>FIU and CBS to formulate a staff development plan for existing staff in order to build capacity of available resources</p> <p>WIP:- CBS is in process of formulating the staff development plans in order to train staff</p> | Budgetary and HR constraints for the related authorities. | Short term 3 months |

| | | | | | | | |
|--|--|--|-----|--|---|---|---|
| | | <p>(e) Enhance information that institutions supervised by CBS, provide to regulators on an offsite basis. This will allow for creation of risk profile of various banks and assist in the implementation of a risk-based framework.</p> | CBS | | <p>CBS should request more granular information from supervised entities. CBS must design templates with risk based methodologies for completion by supervised entities in order to improve data coverage. WIP: - CBS has formulated a risk based AML report which banks are required to submit on a quarterly basis. This has come into effect from March 2017. Moreover, CBS has received IMF TA which has provided additional templates to enhance the monitoring and analysis of AML/CFT risks.</p> | <p>Dependent on consistency and availability of feedback from banks</p> | <p>Short to Medium term 8 months</p> |
| | | <p>(f) CBS to update its policies, procedures and manuals for supervision in line with best practice. This will be in line with the decision to have sectoral regulators. CBS to finalize its AML/CFT examination manual and ensure that it is in line with best practice.</p> | CBS | | <p>CBS to finalise its policies, procedures and manuals by end of 2018.</p> | <p>Manpower and expertise constraints</p> | <p>Short to Medium term 10 months</p> |

| | | | | | | | |
|--|--|--|-----|---------|--|-----|------------------------|
| | | (g) Improve coordination and co-operation between sectoral regulators. It is proposed that this is incorporated in the MoU between the regulators. | CBS | FIU/FSA | To review the existing MOU between CBS, FSA and FIU Formulation of the AML/CFT forum between the regulators | N/A | Short term 3 months |
|--|--|--|-----|---------|--|-----|------------------------|

| | | | | | | | | |
|--|-------|--------------------------------------|---|---------------------------|----------------|--|---|----------------------------------|
| | 1.3.9 | AML Knowledge of Bank's Staff | Regulated entities should develop a capacity building plan to ensure staff are effectively trained. | Regulated entities | CBS | <p>Ensure banks develop a capacity building plan. This will further feed in to the succession plan for business continuity.</p> <p>Ensure all banks are implementing an annual AML training program and maintain records for staff attendance and training materials.</p> <p>Introduce AML tests to monitor staff retention knowledge.</p> <p>Ensure all banks appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff. CBS to ensure training oversight during onsite inspections and verify AML training received and staff knowledge.</p> | Some banks do not have a HR function and as such developing capacity will prove a challenge | Medium to Long term 12 months |
| | | | a) Introduce requirements for all bank staff to undergo minimum training with regards to 'AML/CFT | Regulated entities | FIU/CBS | <p>Banks should have an AML/CFT compliance manual to depict this requirement</p> <p>The manuals are to be examined to ensure compliance during CBS prudential supervision.</p> | | Short term 6 months |

| | | | | | | | |
|--|--------|--|--|--------------|--|--|--|
| | | b) Regulators to ensure that banks have effective training program for AML/CFT | CBS | FIU | Banks to submit the AML Framework as well as the training programme to regulators annually. Banks should further submit a report detailing effectiveness of training provided. Ensure application by banks upon inspections by CBS. | | Medium to Long term 12 months |
| | | To issue a directive for appointment of a dedicated MLRO/CRO with appropriate qualifications and experience. | FIU | CBS | Ensure all banks appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff. FIU has started to compile a database of CROs across all regulated entities including banks. Relevant data on CROs are collected through CRO Questionnaire being sent out to the respective entities. WIP: - By end of 2018, FIU is expected to have 100% completion of CRO database across all sectors. | Labour constraints in the country proves to be a constraints on banks in finding a qualified person to fill in the post with minimal delays Effective training for CROs may not be available locally and therefore more expensive | Short term 3months |
| | 1.3.10 | Effectiveness of Compliance Function (Organization) | Banks to further enhance their monitoring system for AML/CFT | Banks | CBS/FIU | CBS to require banks to complete an independent audit of their AML/CFT risk management framework Banks to re-assess their existing systems and procedures, and realign to ensure in line with best practices -i.e. FATF recommendations | Existing systems may not be easily modified and would need to implement a new one, impacting on the time that same can be implemented. |

| | | | | | | | |
|--|--|---|--------------|----------------|---|--|----------------------------------|
| | | | | | CBS to ensure the adequacy of AML internal controls and procedures WIP: - reflected in inspection reports. CBS required all bank to present their AML framework in June 2017 to be followed up on inspections. | | |
| | | Further staff training to enhance their efficiency in monitoring transactions | Banks | | Ensure banks develop a succession and HR plan to build staff capacity and identify the specific AML training needs of their staff:- Ensure all banks are implementing an annual AML training program and maintain records for staff attendance and training materials. Also introduce AML tests to monitor staff retention knowledge. Ensure all banks appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff. CBS to ensure training oversight during onsite inspections and verify AML training received and staff knowledge | Some banks do not have a HR function and as such developing a HR plan will prove a challenge | Short term 6 months |
| | | All banks to adopt a risk based approach for AML risk management All banks required to set up a fully fledged compliance | Banks | CBS/FIU | Ensure banks apply and develop a risk based approach to AML monitoring CBS to ensure the bank's AML framework is in line with the RBA | | Medium to Long term 12 months |

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|-------|---|---|------------|--------------|--|--|--------------------------------|
| | | function with adequate resources with an independent qualified compliance officer. | | | | | |
| | | Regulators to require that banks and non-banks takes actions against staff in breach of AML requirement | CBS | Banks | CBS to develop a template for a return that requires reporting of standardise offences by staff. Same should include any investigation conducted by the banks and non-banks and any enforcement actions taken | | Short term 6 months |
| | | To introduce requirements for banks to conduct periodical AML risk self-assessment. | CBS | BANKS | Ensure banks are adopting a periodic monitoring program which is aligned to AML best practice standards and in aligned to the RBA | | Short term 6 months |
| 1.3.5 | Availability and Enforcement of Administrative Sanctions | (a) To review and amend the FIA, NPSA and the AML Act to evaluate whether administrative actions can be incorporated within same. | CBS/FIU | | Setup up working group which will include all the relevant stakeholders to determine the required sanction recommendations for the FIA, NPSA and AML Act To get IMF to review the findings of working group | | Short to medium term 12 months |

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|--------|--|---|---|----------------------------------|---|---|---------------------------------|
| | | (b) Building capacity within regulators and law enforcement agencies to ensure that ML offences are correctly investigated and filed for prosecution. | MoFTEP/ Police/ Attorney General's Office | CBS/AML High level Committee/FIU | Ensure agencies identify training needs for staff at all levels, particularly for the Police and Attorney's General's office (investigation training for financial crimes, raising standards for prosecutors) Ensure that training is undertaken by the agencies Re-initiate AML High Level National Committee in being more proactive; | Training identified may not be available locally Budget constraints on these entities as budget is dependent on MoFTEP Retention of knowledge by relevant staff | Short to Long term 12 months |
| 1.3.8 | Integrity of Bank Staff | Assess the potential for introducing stricter requirements for banks to report suspected cases related to AML/CFT breach to the regulator | CBS | | Establish or determine breach of conduct and then develop reporting framework Provide training/sensitisation on reporting framework to all banks to ensure consistency on reporting | | Short term 6 months |
| 1.3.11 | Effectiveness of Suspicious Activity Monitoring and Reporting | Banks to further enhance their monitoring system and ensuring its features are more dynamic to identify, monitor and report suspicious activity | Banks | CBS/FIU | Banks to ensure they develop procedures and policies for STR reporting Banks to ensure that staff are trained to identify, monitor and report STR Banks to ensure that a designated CRO is identified and known to staff to facilitate investigation and escalation. | | Short term 3 months |

| | | | | | | | |
|-------|---|---|---------------------------------------|----------------|--|---|-------------------------|
| | | Ensure availability of documents to support AML related transactions. | Banks other regulated entities | FIU/CBS | Banks to ensure they maintain archives to store customer transaction/files. Banks to ensure that records are maintained in accordance with the records retention obligations of the AML Act FIU and CBS to ensure compliance during full scope examination and follow up reviews. | | Short term 6 months |
| | | Improve staff knowledge in monitoring of transactions of PEP | Banks | FIU/CBS | Banks to organise PEP training for staff Banks to develop system/ tools to flag and identify PEPs to ensure commensurate monitoring of such customers Banks to apply commensurate CDD measures to PEP customers i.e mandatory senior management approval, declaration for wealth, source and political status FIU and CBS to ensure compliance during full scope examination and follow up reviews. | System and tools may not be readily available and is time consuming to implement same | Medium term 8 months |
| 1.3.7 | Availability and Effectiveness of Entry Controls | (a) Continue building technical capacity of CBS staff especially in the area of evaluating AML/CFT risk when evaluating | CBS | | Identify CBS staff that requires further supervisory training for evaluation of license application and UBO identification | | Short term 3 months |

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|--|--|--|------------|--|---|-----------------------------------|
| | | bank, license application | | | | |
| | | (b) Conduct a review of current framework for bank licensing against the core principle 7 to assess level of adherence | CBS | | WIP:- review is currently being undertaken in line with the amendments for the FIA due December 2018 | Medium to Long term 12 months |
| | | (c) Review section 5 and 6 of FIA to strengthen the process for licensing | CBS | | WIP:- review is currently being undertaken in line with the amendments for the FIA due December 2018 | Short to medium term 12 months |
| | | (d) Review and enhance the 'fit and proper framework' for appointment of key personnel within banks. This include expanding the scope of positions that requires the regulators' approval and also greater emphasis on ensuring the qualifications and experience of | CBS | | WIP:- review is currently being undertaken in line with the amendments for the FIA due December 2018'ss | Short to medium term 12 months |

| | | | | | | | |
|-------|--|---|--|--|--|---------------------------|---------------------|
| | | those taking on key positions. | | | | | |
| 1.3.6 | Availability of Enforcement of Criminal Sanctions | (a) Building capacity within regulators and law enforcement agencies to ensure that ML offences are correctly investigated and filed for prosecution. | Law Enforcement Agencies/FIU/CBS/Attorney General's office | | Ensure agencies develop succession and HR plan to build staff capabilities CBS has internal capacity development plan to cater for AML/CFT, e.g. ACAIMs certified Identifying and nominating Point of Contacts (POC) to discuss and address issues | Budget and HR Constraints | Short term 6 months |
| | | (b) Greater commitment on the part of regulators and law enforcement to prosecute in instances of AML noncompliance. | Law Enforcement Agencies/FIU/CBS | | Re-initiate AML High Level National Committee in being more proactive formulate legal instruments to empower the National AML/CFT Committee Need to build investigative skills for regulators & prosecution expertise for the AG's office | Budget and HR Constraints | Short term 3 months |

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| | 1.3.3 | Compliance with revised Principle 29 of the Basel Core Principles | Based on the results of the above review prepare an action plan to address deficiencies observed | CBS | | CBS to prepare an action plan detailing a timeline to correct any unaddressed issues | Availability of resources: - Time and HR constraints | Medium to Long term 12 months |
|--|-------|--|--|-----|--|--|---|----------------------------------|

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| | HIGH PRIORITY |
| | SECOND PRIORITY |
| | THIRD PRIORITY |
| | FOURTH PRIORITY |
| | FIFTH PRIORITY |
| | SIXTH PRIORITY |
| | SEVEN PRIORITY |
| | TO BE DONE |

Annex 5: DNFBP Sector Action Plan

| Sources of ML Risk | Key Action | Primary Agency | Secondary Agency | Detailed Action Plan | Remarks/ Implementation Issues | Timeframe |
|---|--|----------------|--------------------------------|---|--|----------------|
| Motor Vehicle Dealers receiving cash payments | Minimise use of cash, | SLA | Car Dealer association/ FIU | FIU to run on-site inspections | Inspections started in 2016 and ongoing | Ongoing |
| | encourage more record keeping in receipts, | FIU | | AML training to staff | Ongoing, already begun providing training since 2016 | Ongoing |
| | sensitization to ML risks | FIU | | Dealers encouraged to develop better AML policies, including identification of PEPs, and ensure that payment is by bank transfers or cheque | Ongoing, already begun providing training since 2016 | Ongoing |

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|---|--|------------------|------------------|---|--|---------------|
| | | AGO | | Ag's Office has been mandated to issue a new regulation to enforce the new policy for motor dealers to accept payment only by cheque or bank transfer | SLA will need to draft a policy document to commence drafting exercise | |
| | | SLA | | SLA to tighten the entry requirements for licensing of dealers and a time limit on the validity of the license (with renewal requirement). | May require amending legislation or regulations | December 2018 |
| | | | | SLA to be given directive by Ministry of Finance ensure that payments are documented, to implement the policy | | |
| | | FIU | | Agents to be provided with the United Nations Security Council Resolution terrorist lists | FIU to issue lists as soon as it is received. | |
| | | FIU | | Regular inspections by the FIU | Ongoing, periodic inspections already started in 2016 | Ongoing |
| Casinos permitting high value cash transactions | Mitigate the likelihood of casinos being used to launder | FIU / FSA | FIU / FSA | On-site inspections by the FIU to check books, practices and policies | Ongoing, periodic inspections already started in 2016 | Ongoing |
| | | | | Encourage casinos to implement policies for the enhanced DD of high risk clients | Sensitization through FIU or COMESA and ongoing | Ongoing |

| | | | | | | |
|--|---|-------------------|--|--|---|---------------|
| | | FSA | | Regulators should seek to learn from jurisdictions with experience of high numbers of junkets and high-level casino operations and implement policies in Seychelles. | To visit Macau and Las Vegas | December 2018 |
| | | FIU | | FIU to develop ongoing Staff training for casino staff | Ongoing, already begun providing training since 2016 | Ongoing |
| | | | Casinos to be provided with the United Nations Security Council Resolution terrorist lists | FIU to issue lists as soon as it is received. | Ongoing | |
| | | FSA | | Encourage casinos to review and improve transactions especially payment policies related to accepting charge back in line with international best practice | Casinos to review its currently cash transaction process especially on chargeback | |
| Real Estate Agents accepting cash payments | Encourage more transparency in real estate transactions | FIU | Real Estate Board | On-site inspections by the FIU | Ongoing, periodic inspections already started in 2016 | Ongoing |
| | | | | AML training for agencies to be provided by FIU in collaboration with the Real Estate Board | Ongoing, already begun providing training since 2016 | Ongoing |
| | | Real Estate Board | | Real Estate Board encouraged to play a more active role in supervision and exercise their sanction power | | |
| | | Land Registrar | | Land Registry to ensure MLUH sanction is on file prior to effecting transfer for foreign buyers | Lawyers who fail to provide adequate documentation of foreign sanction, should be | December 2018 |

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|--|--|-----------------------|--|---|
| | | | reported to the Chief Justice | |
| | | Land Registrar | Introduce legislation prohibiting local persons acting as nominees for foreigners willing to purchase land | |
| | | FIU | Agents to be provided with the United Nations Security Council Resolution terrorist lists. | FIU to issue lists as soon as it is received. |
| | | Real Estate Board | Agents to adopt mechanisms to identify PEPs and other high risk customers | Agents will have to subscribe with world check |
| Lawyers and legal professionals | Tighten regulation and to sensitize to ML/FT risks | FIU | On-site inspections of lawyers. | Ongoing |
| | | FIU | FIU officers to receive specialist training in identifying risks and the extent of legal privilege | Lawyers can also be notaries, estate agents, and have licenses to establish IBCs, many believe that attorney client privilege covers all of these relationships |
| | | Chief Justice | Membership of Bar Association should be compulsory and Bar Association should have sanctioning power | suggest amendment to legislation |
| | | | | December 2018 |

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|--|---------------------|---|--|--|---|----------------|
| | | FSA | | Legislation regarding the creation and management of IBCs by lawyers with CSP licenses should be strengthened to prevent hiding of ultimate beneficial ownership | suggest amendment to legislation | December 2018 |
| | | FIU | | Lawyers should be provided with the UNSCR list and implement mechanisms to facilitate the identification of PEPS and other high risk customers. | FIU to issue lists as soon as it is received. | Ongoing |
| Dealers of Precious Metals and Stones | Sensitize and train | FIU | | FIU to carry out on-site inspections | Inspections are already planned to take place in early 2018 | Ongoing |
| | | | | AML training to the staff of all Precious Metals and Stones dealers | Ongoing, already begun providing training since 2016 | Ongoing |
| | | FIU | | Encourage dealers to appoint a CRO who will perform the statutory duties | Inspections are already planned to take place in early 2018 | Ongoing |
| | | MoFTEP | | Regulations to be introduced to require a license to buy and sell used gold and to import/export used gold | MoFTEP to introduce regulations | September 2018 |
| | | Precious Metal & Stone Dealers | | Agents to adopt mechanisms to identify PEPs and other high risk customers including being provided with the UNSCR lists | To subscribe to world check | August 2018 |

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|---|---|------------|--------------------------|--|---|--|-------------|
| Boat & Yacht Dealers being used in cash intensive transactions | Sensitize and train in AML/CFT | FIU | Port Authority | FIU to undertake on-site inspections | Inspections already planned to take place in early 2018 | Ongoing | |
| | | | SMSA | ML training to Boat & Yacht dealers | Training to start in 2018 | December 2018 | |
| | | | | Work with SLA, Port Authority and SMSA to develop guidelines on licensing for boat and yacht dealers | To enhance the existing guidelines once SMSA officially becomes an Authority | December 2018 | |
| | Increase and strengthening of synergy between the key stakeholders | SMSA & SPA | SMSA/ Ports Authority | | Ensure proper registration of all private pleasure crafts (boats) and those being imported into the jurisdiction | SMSA once it become Authority | |
| | | | | | To monitor and prevent illegal charters of pleasure craft on Eden Island and non-payment of correct dues to SRC | Working with, SRC, Port Authority, SLA, Marine Police, SMSA and all Marinas | |
| | | | | | Agents to adopt mechanisms to identify PEPs and other high risk customers including being provided with the UNSCR lists | FIU to issue lists as soon as it is received. | August 2018 |
| | | | | | Ensure that the necessary policies and mechanism are put in place to close the loopholes in the yachting industry. | Create a formal committee consisting of members or representatives of key stakeholders/agencies. | August 2018 |

| | | | | | | |
|--------------------|--|---------------|---|--|------------------------------------|------------------------------------|
| | | | | The Harbour Act currently under review | Ongoing process | Ongoing process |
| | | | | Harbour Dues Regulations currently been amended and submitted to AG's Office. | To be effective as of January 2019 | To be effective as of January 2019 |
| Accountants | | MOFTEP | Association of Accountants / Attorney General | Review of the Accountants Bill and creation of an association with compulsory membership and adequate sanction power | Will require legislative amendment | |
| | | SLA | | Review of the licensing process to practice as an accountant | Will require legislative amendment | |

Annex 6: Other Financial Institutions (Buying and selling of FX, Remittance sector and other lenders (HFC, DBS and SCU) Action Plan

Detailed Implementation Action Plan

Notes:

i) The structure of Template serves as a guide only. Jurisdictions may modify it to suit their own internal planning approach or use their own detailed planning templates.

ii) The number of the rows should be modified by Jurisdictions to meet the number of the detailed actions.

iii) Please refer to the outputs of the modules of NRA Tool to identify the sources of the risks and prioritize the actions.

| | ML Risk | Key Action | Prime Agency | Secondary Agency | Detailed Action Plan | Remarks/ Implementation Issues | Time Frame |
|---------|--|--|------------------------|----------------------|---|-----------------------------------|---------------------|
| Ranking | | | | | | | |
| | Effectiveness of Supervision Procedures and Practices | (a) Segregate the supervision of AML/CFT to each sectoral regulator being CBS for the remittance market, buying and selling of FX and other lenders such as HFC, DBS and SCU (Hereafter referred as supervised entities) | National AML committee | Cabinet of ministers | Review the legislative framework in order to transfer the mandate for the AML/CFT supervision to the respective sectoral authority. | | Short term 3 months |

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|--|--|---------|--|--|--|---------------------------------------|
| | (b) Formulation and implementation of training plan for CBS examiners to undertake onsite examinations of AML/CFT risk using a risk based approach. | CBS | | <ul style="list-style-type: none"> - Identification of specific training needs - Request applicable training. - Where applicable request technical training assistance from external parties, i.e. IMF, COMESA and UNODC; | Availability of external trainers. Budget training constraints | Short to medium term 3 - 12 months |
| | <p>(c) CBS to review human resources capacity relative to AML/CFT supervision.</p> <p>FIU to review human resources capacity relative to investigation of AML/CFT issues</p> <p>(budget allocation for staff).</p> | CBS/FIU | | <p>FIU and CBS to identify gaps in its resources and make recommendation to its Board for rectifying same.</p> <p>FIU and CBS to formulate a staff development plan for existing staff in order to build capacity of available resources</p> <p>WIP:- CBS is in process of formulating the staff development plans in order to train staff</p> | Budgetary and HR constraints for the related authorities. | Short term 3 months |

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| | <p>(e) Enhance information that insitutions supervised by CBS, provide to regulators on an offsite basis. This will allow for creation of risk profile of the various regulated entities and assist in the implementation of a risk-based framework.</p> | CBS | | <p>CBS should request more granular information from supervised entities. CBS must design templates with risk based methodologies for completion by supervised entities in order to improve data coverage. Moreover, CBS has received IMF TA which has provided additional templates to enhance the monitoring and analysis of AML/CFT risks.</p> | | <p>Short to Medium term 8 months</p> |
| | <p>(f) CBS to update its policies, procedures and manuals for supervision in line with best practice. This will be in line with the decision to have sectoral regulators. CBS to finalize its AML/CFT examination manual and ensure that it is in line with best practice.</p> | CBS | | <p>CBS to finalise its policies, procedures and manuals by end of 2018.</p> | <p>Manpower and expertise constraints</p> | <p>Short to Medium term 10 months</p> |

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|--|--|-----|---------|--|-----|------------------------|
| | (g) Improve coordination and co-operation between sectoral regulators. It is proposed that this is incorporated in the MoU between the regulators. | CBS | FIU/FSA | To review the existing MOU between CBS, FSA and FIU Formulation of the AML/CFT forum between the regulators | N/A | Short term 3 months |
|--|--|-----|---------|--|-----|------------------------|

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| | AML Knowledge of Institution's Staff | Regulated entities should develop a capacity building plan to ensure staff are effectively trained. | Regulated entities | CBS | <p>Ensure supervised entities develop a capacity building plan. This will further feed in to the succession plan for business continuity.</p> <p>Ensure all entities are implementing an annual AML training program and maintain records for staff attendance and training materials.</p> <p>Introduce AML tests to monitor staff retention knowledge.</p> <p>Ensure all supervised entities appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff. This requirement should be based on the size, complexity and nature of their activities. CBS to ensure training oversight during onsite inspections and verify AML training received and staff knowledge.</p> | Some entities do not have a HR function and as such developing capacity will prove a challenge | Medium to Long term 12 months |
| | | a) Introduce requirements for all staff of supervised entities to undergo minimum training with regards to 'AML/CFT | Regulated entities | FIU/CBS | <p>Supervised entities should have an AML/CFT compliance manual to depict this requirement</p> <p>The manuals are to be examined to ensure compliance during CBS prudential supervision.</p> | | Short term 6 months |

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|--|---|------------|------------|--|--|----------------------------------|
| | b) Regulators to ensure that supervised entities have effective training program for AML/CFT | CBS | FIU | Supervised entities to submit the AML Framework as well as the training programme to regulators annually. Supervised entities should further submit a report detailing effectiveness of training provided. Ensure application by supervised entities upon inspections by CBS. | | Medium to Long term 12 months |
| | To issue a directive for appointment of a dedicated MLRO/CRO with appropriate qualifications and experience. This requirement should apply to supervised entities based on the risks assessments conducted by the supervised and/or regulated entities considering the exposure to risk, size, nature and complexity of business activities. | FIU | CBS | Ensure all supervised entities appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff. FIU has started to compile a database of CROs across all regulated entities including banks. Relevant data on CROs are collected through CRO Questionnaire being sent out to the respective entities. WIP: - By end of 2018, FIU is expected to have 100% completion of CRO database across all sectors. | Labour constraints in the country proves to be a constraints on supervised entities in finding a qualified person to fill in the post with minimal delays Effective training for CROs may not be available locally and therefore more expensive | Short term 3months |

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| | Effectiveness of Compliance Function (Organization) | Supervised entities to further enhance their monitoring system for AML/CFT | Supervised entities | CBS/FIU | <p>CBS to require supervised entities to complete an independent audit of their AML/CFT risk management framework</p> <p>As for other supervised entities, CBS to require independent audit of their AML/CFT risk management framework based on the nature, size and complexity of the business activities.</p> <p>Supervised entities to re-assess their existing systems and procedures, and re-align to ensure in line with best practices -i.e. FATF recommendations CBS to ensure the adequacy of AML internal controls and procedures</p> | <p>Existing systems may not be easily modified and would need to implement a new one, impacting on the time that same can be implemented.</p> <p>For other supervised entities, they may not have the resources needed to acquire such systems.</p> | <p>Medium to Long term 12 months</p> |
|--|--|--|----------------------------|----------------|---|---|--|

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|--|--|----------------------------|----------------|--|--|----------------------------------|
| | Further staff training to enhance their efficiency in monitoring transactions | Supervised entities | | Supervised entities develop a succession and HR plan to build staff capacity and identify the specific AML training needs of their staff:- Ensure all supervised entities are implementing an annual AML training program and maintain records for staff attendance and training materials. Also introduce AML tests to monitor staff retention knowledge. Ensure all supervised entities appoint a designated CRO to undertake all AML obligations and provide effective trainings to all relevant staff based on the nature , size and complexity of business activities. CBS to ensure training oversight during onsite inspections and verify AML training received and staff knowledge | Some supervised entities do not have a HR function and as such developing a HR plan will prove a challenge | Short term 6 months |
| | All supervised entities to adopt a risk based approach for AML risk management All supervised entities are required to set up a fully fledged compliance function with adequate resources | Supervised entities | CBS/FIU | Ensure supervised entities to apply and develop a risk based approach to AML monitoring CBS to ensure the entities' AML framework is in line with the RBA | | Medium to Long term 12 months |

| | | | | | | |
|---|--|------------|----------------------------|---|--|--------------------------------|
| | with an independent qualified compliance officer. This requirement is to be applied based on the nature, level and complexity of the business and its exposure to AML/CFT risk. | | | | | |
| | Regulators to require that supervised entities takes actions against staff in breach of AML requirement | CBS | Supervised entities | CBS to develop a template for a return that requires reporting of standardise offences by staff. Same should include any investigation conducted by supervised entities and any enforcement actions taken | | Short term 6 months |
| | To introduce requirements for supervised entities to conduct periodical AML risk self-assessment. | CBS | Supervised Entities | Ensure supervised entities are adopting a periodic monitoring program which is aligned to AML best practice standards and in aligned to the RBA | | Short term 6 months |
| Availability and Enforcement of Administrative Sanctions | (a) To review and amend the FIA, NPSA and the AML Act to evaluate whether administrative actions can be | CBS/FIU | | Setup up working group which will include all the relevant stakeholders to determine the required sanction recommendations for the FIA, NPSA, NBFIA Act and AML Act | | short to medium term 12 months |

| | | | | | | |
|---|---|---|----------------------------------|---|---|---------------------------------|
| | incorporated within same. CBS to also consider the inclusion of similar provisions in the NBF Act once introduced. | | | To get IMF to review the findings of working group | | |
| | (b) Building capacity within regulators and law enforcement agencies to ensure that ML offences are correctly investigated and filed for prosecution. | MoFTEP/ Police/ Attorney General's Office | CBS/AML High level Committee/FIU | Ensure agencies identify training needs for staff at all levels, particularly for the Police and Attorney's General's office (investigation training for financial crimes, raising standards for prosecutors) Ensure that training is undertaken by the agencies Re-initiate AML High Level National Committee in being more proactive; | Training identified may not be available locally Budget constraints on these entities as budget is dependent on MoFTEP Retention of knowledge by relevant staff | short to Long term 12 months |
| Integrity of supervised entities Staff | Assess the potential for introducing stricter requirements for supervised entities to report suspected cases related to AML/CFT breach to the regulator | CBS | | Establish or determine breach of conduct and then develop reporting framework Provide training/sensitisation on reporting framework to all supervised entities to ensure consistency on reporting | | Short term 6 months |

| | | | | | | | |
|--|--|---|----------------------------|----------------|---|---|-------------------------|
| | Effectiveness of Suspicious Activity Monitoring and Reporting | Supervised entities to further enhance their monitoring system and ensuring its features are more dynamic to identify, monitor and report suspicious activity | Supervised Entities | CBS/FIU | Supervised entities to ensure they develop procedures and policies for STR reporting Supervised entities to ensure that staffs are trained to identify, monitor and report STR Supervised entities to ensure that a designated CRO is identified and known to staff to facilitate investigation and escalation. For supervised entities this should apply based on the nature, scale and complexity of the business activities. | | Short term 3 months |
| | | Ensure availability of documents to support AML related transactions. | Supervised entities | FIU/CBS | Supervised entities to ensure they maintain archives to store customer transaction/files. Supervised entities to ensure that records are maintained in accordance with the records retention obligations of the AML Act FIU and CBS to ensure compliance during full scope examination and follow up reviews. | | Short term 6 months |
| | | Improve staff knowledge in monitoring of transactions of PEP | Supervised entities | FIU/CBS | Supervised entities to organise PEP training for staff Supervised entities to develop system/ tools to flag and identify PEPs to ensure commensurate monitoring of such customers Supervised Entities to apply commensurate CDD measures to PEP customers i.e. mandatory | System and tools may not be readily available and is time consuming to implement same | Medium term 8 months |

| | | | | | | |
|---|---|------------|--|---|--|-----------------------------------|
| | | | | senior management approval, declaration for wealth, source and political status FIU and CBS to ensures compliance during full scope examination and follow up reviews. | | |
| Availability and Effectiveness of Entry Controls | (a) Continue building technical capacity of CBS staff especially in the area of evaluating AML/CFT risk when evaluating Supervised entities license application | CBS | | Identify CBS staff that requires further supervisory training for evaluation of license application and UBO identification | | Short term 3 months |
| | (b) Review section 5 and 6 of FIA to strengthen the process for licensing | CBS | | WIP:- review is currently being undertaken in line with the amendments for the FIA due December 2018 | | short to medium term 12 months |

| | | | | | | |
|--|--|-------------------|--|--|--|---|
| | <p>(c) Review and enhance the 'fit and proper framework' for appointment of key personnel within Supervised Entities. This includes expanding the scope of positions that requires the regulators' approval and also greater emphasis on ensuring the qualifications and experience of those taking on key positions.</p> <p>Depending on the nature, scale and complexity of activities for supervised entities this should also be made a requirement.</p> | <p>CBS</p> | | <p>WIP:- review is currently being undertaken in line with the amendments for the FIA due December 2018'ss</p> | | <p>Short to medium term 12 months</p> |
|--|--|-------------------|--|--|--|---|

| | | | | | | | |
|--|--|---|--|--|--|---------------------------|---------------------|
| | Availability of Enforcement of Criminal Sanctions | (a) Building capacity within regulators and law enforcement agencies to ensure that ML offences are correctly investigated and filed for prosecution. | Law Enforcement Agencies/FIU/CBS/Attorney General's office | | Ensure agencies develop succession and HR plan to build staff capabilities CBS has internal capacity development plan to cater for AML/CFT, e.g. ACAIMs certified Identifying and nominating Point of Contacts (POC) to discuss and address issues | Budget and HR Constraints | Short term 6 months |
| | | (b) Greater commitment on the part of regulators and law enforcement to prosecute in instances of AML noncompliance. | Law Enforcement Agencies/FIU/CBS | | Re-initiate AML High Level National Committee in being more proactive formulate legal instruments to empower the National AML/CFT Committee Need to build investigative skills for regulators & prosecution expertise for the AG's office | Budget and HR Constraints | Short term 3 months |

- HIGH PRIORITY
- SECOND PRIORITY
- THIRD PRIORITY
- FOURTH PRIORITY
- FIFTH PRIORITY
- SIXTH PRIORITY

SEVEN PRIORITY
TO BE DONE

Annex 7: Terrorist Financing Sector Action Plan

Notes:

ii) The number of the rows should be modified by Jurisdictions to meet the number of the detailed actions.

iii) Please refer to the outputs of the modules of NRA Tool to identify the sources of the risks and prioritize the actions.

| Sources of ML Risk | Key Action | Primary Agency | Secondary Agency | Detailed Action Plan | Remarks/ Implementation Issues |
|----------------------------------|--|----------------|------------------|--|--|
| STR Data Analysis is inefficient | Improve the efficiency of STR data analysis capacity of FIU. | FIU | CBS | Identifying the problems in STR reporting and analysts system. | Detailed actions may need to be expanded, depending on the findings. |
| | | | | Further training to the analysts at FIU. | Identify potential training material and sources. |
| | | | | If the number is limited, consider hiring new analysts. | |

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|--|--|--|---|--|
| | | | Identify the problems in STR reporting process. | |
| | | | Training/guidance to reporting institutions. | |
| | | | Supervision of STR systems and practices of reporting institutions. | Cooperation with CBS. Regular compliance supervisions. |

Annex 8: NRA Work Group Composition

Composition of Teams for NRA World Bank Working Teams (&W/shop)

- As of 15th January 2016-

(V11)

Note: Names in **Red**, while part of that Team, are assigned specifically to another Team (in Black), for the purposes of this Workshop (a small number of people are assigned to more than one Team for both administrative and practical reasons).

| Teams | Agencies/Others | Modules | Agency/Nominee/Contact Details (email/phone) |
|--|--|------------------|---|
| Threat Assessment & National Vulnerability [Lead: Audrey Annette, FIU with Christophe Edmond, CB, Aurore Arcambal, MOF] | <ul style="list-style-type: none"> • FIU • Central Bank • Ministry of Finance • FSA • Attorney General's • National Drug Enforcement Agency • Police • Ministry Home Affairs • Seychelles Revenue Commission (SRC) • Ministry of Foreign Affairs • Public Officers' Ethics Commission • Registrar General • Citizen Engagement Platform Seychelles (CEPS) | 1 & 2 | Audrey Annette Fiona Waye-Hive May-Paule Rabat Christophe Edmond Aurore Arcambal Alain Chang-Sam Amanda Faure Natalie Marie Jan Celliers Ronald Fock-Tave Sandra Lawrence Sandra Michel Emmanuel Green Fred Hoareau & Wendy Pierre (part) Jules Hoareau (part) |

| | | | |
|---|--|----------|--|
| | | | Marie-Therese Purvis |
| Banking Sector: [Lead: Naadir Hassan, CB with Amanda Padayachy, MOF] | <ul style="list-style-type: none"> • Central Bank • Ministry of Finance • Bankers • Seychelles Development Bank • Credit Union • Seychelles Commercial Bank • FSA • FIU | 3 | Naadir Hassan, Audrey Rath Rebecca David Amanda Padayachy Sujeet K. Shrivastava Sardar H. Khan Bernard Jackson A.N. Other Ingrid Sinon Brigitte Sabino Sally Gopal Lana Fock-Tave Fiona Waye-Hive & Mark Jeyasingh (part) |
| Offshore Sector [Lead: Richard Rampal, FSA with Angelique Antat] | <ul style="list-style-type: none"> • FSA • Ministry of Finance • FIU • Central Bank • Stock Exchange • Ministry of Finance • Industry Reps. • Compliance Association • SRC • Central Bank | 4 | Richard Rampal Paul Robert Deborah Port-Louis Randolph Samson Angelique Antat May-Paule Rabat Naadir Hassan Bobby Brantley Angelique Antat Tatiana Balabanova, Natalie Mishicheva (SAOPRA/Apollo) Janette Powell Elma Athanase Liz Julienne |

| | | | |
|--|---|-----------------|--|
| <p>Other Financials</p> <p>[Lead: James Jean, CB, FIU with Garry Jupiter, FSA]</p> | <ul style="list-style-type: none"> • Central Bank • FSA • FIU • Bureau de Changes • Money Remitters • Payment system Rep. (Airtel) • Insurance Reprs.(companies, brokers, agents) • SRC • SLA | <p>5</p> | <p>James, Jean Aaron Leong-Pon Charmine Franchette Stephanie Pillay</p> <p>Garry Jupiter Ammu Chetty</p> <p>Genevieve Volcere</p> <p>Francois Rose (Cash Plus) Deoraj Puddoo (Western Union/Nouvobanq)</p> <p>Chandima Punchihewa ('Double Click')</p> <p>Kosala Dewaraja & Oladapso Dosunmu ('Airtel')</p> <p>Lambert Woodcock (Elizabeth Telemaque)</p> <p>Benny Tsui</p> <p>Daniel Quatre</p> |
| <p>DNFBP's (Designated Non-Financial Businesses & Professions)</p> <p>[Lead: Phillip Moustache, FIU with Franky Madeleine, SLA, Fred Hoareau, RG]</p> | <ul style="list-style-type: none"> • FIU • Seychelles Licensing Authority • Registrar General • Bar Association of Seychelles • Accountants • Auditors • Office of Chief Justice • Motor Vehicle Dealers • Casinos | <p>6</p> | <p>Phillip Moustache, Jayalaksmi Chetty</p> <p>Flavia Contoret Judy Sinon)</p> <p>Fred Hoareau</p> <p>Davino Sabino</p> <p>A.N. Other</p> <p>Gerry Henri</p> <p>Joelle Barnes</p> <p>Kelly Kim Koon Raphael Demba</p> <p>Sai Pillay</p> <p>'Arriva'/Vivian Rassool</p> |

| | | | |
|---|--|---|---|
| | <ul style="list-style-type: none"> • Real Estate • Jewellery/Precious Metal • Seychelles Maritime Safety Administration • Ministry of Finance • FSA | | <p>Lisa Barratt Steve Thelemont ('Joel')</p> <p>Brigitte Ciseau, Ruth Port-Louis</p> <p>Aurore Arcambal</p> <p>Maryline Joseph</p> |
| <p>Terrorist Financing (TF)</p> <p>[Lead: Jessica Kerr, FIU with Andy Asba, AG's, Ronald Fock-Tave, Immigration/MOHA]</p> | <ul style="list-style-type: none"> • FIU • Ministry of Home Affairs • AG's • National AML Committee • National CTF Committee • Ministry of Foreign Affairs • CEPS • Registrar of Associations • Auditors (NPO sector) • Police • SRC (Customs) | <p>7</p> <p># 1 & 2 (TF shown on World Bank memo)</p> | <p>Jessica Kerr Jourdane Pool</p> <p>Ronald Fock-Tave</p> <p>Andy Asba</p> <p>Liam Quinn</p> <p>Thomas Quilter</p> <p>Sandra Michel</p> <p>Tessa Henderson</p> <p>Julia Lajoie</p> <p>Gerry Henri(or alternate)</p> <p>Flint Gappy</p> <p>Fred Morel</p> |

Others: Michelle Lafortune, MOHA, Joan Lespoir, CBS, Hansel Confiance, MOFA, Andrew Lebon, FSA

Annex 9: Recommended NRA Guidelines from WB Methodology

World Bank NRA 2015/2016

Key Points:

1. A Framework & Advisory Package
2. A Risk Assessment Tool
3. A System & Organized Process
4. Multi-disciplinary approach: Building Capacity
5. Excel-based Model
6. Factors affecting Risk & Vulnerabilities
7. **Risk** = scale & characteristics of the proceeds of crime or financing of terrorism
8. **Vulnerabilities** = weaknesses or gaps in a country's defenses V. ML/TF
9. Divided into Themes or Sectors (public & private sectors (as appropriate))
10. Each Group assigns ratings to input variables (= assigned weights)
11. **Quantitative** (Measurable) & **Qualitative** data (Quality)

The Process

Phase 1: The Preparation

1. WB written guidance [National Risk Assessment Working Group]
2. Collect pre-assessment data & information; manage logistics
3. WB & Working Group reps. – Video Conference – Current position
4. Important for No. 2 to have effective W/shops

Output: High/Medium/Low Risk [Sectors + National]

Phase 2: Assessment

1. Three day W/shop For ALL Working Group members
2. Introduce Assessment Tool & Assessment Process (launch)
3. Brainstorming Exercise on ML/CFT
4. Risk Assessment Tool (training)
5. Start of W/shop – for 9 Months
6. WB provides guidance for Assessment completion
7. WB reviews draft risk assessment report for accuracy of the Assessment Methodology

Output: Risk Assessment Report –process, findings& evidence

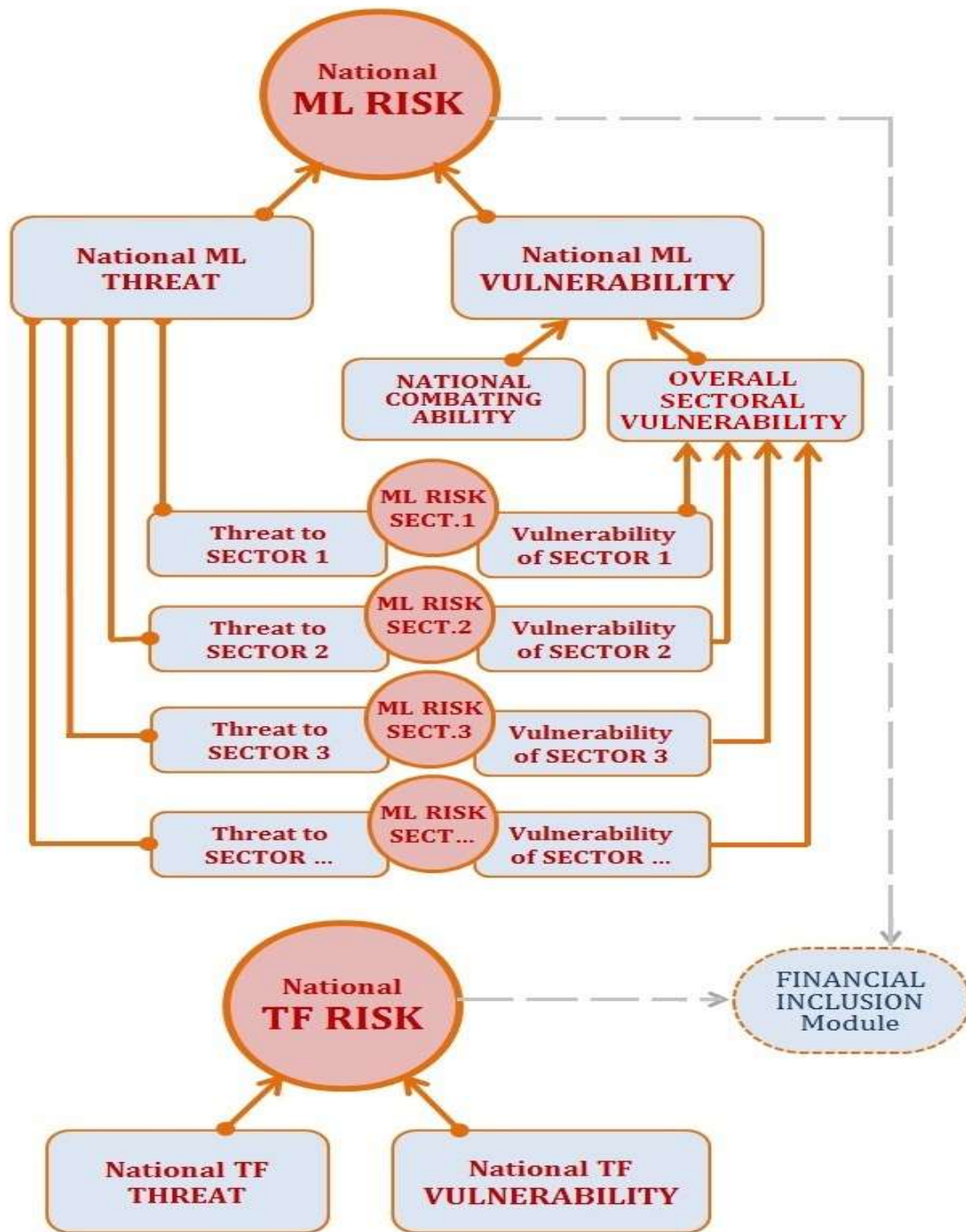
Phase 3: Finalisation

1. Three Day W/shop
2. Discussion on Risk Assessment results – agencies/policymakers
3. Focus on (i) final review of design of risk-based action plans (ii) implementation issues (discussions)

Output: Action Plan – risk-based approach to mitigate risks ML/TF

The Process – An Overview

- Owned by Seychelles
- Technical Support for WB
 - Capacity-Building
- All Stakeholders to enhance co-operation & Input
 - Clear timetable
 - Identify data & information gaps
- Develop a Framework for the future in data collection



| TEAMS | SUGGESTED PARTICIPANTS | RELEVANT MODULES |
|-----------------------------------|--|---|
| THREAT ASSESSMENT TEAM | <ul style="list-style-type: none"> • Prosecutor’s Office (1) • FIU (1) • Police (organized crimes, drug trafficking, arms smuggling, and other important crimes in the jurisdiction) (1-2) • Anti-corruption agency (1) • Anti-drug agency (1) • Ministry of Justice (1) • Customs Authority (1) • Tax Authority (1) • National Intelligence Agency (1) • Academia (1) | <p>MODULE 1.A, B,C ML THREAT</p> <p>MODULE 8 TF THREAT Tabs</p> |
| NATIONAL VULNERABILITY TEAM | <ul style="list-style-type: none"> • Prosecutor’s Office (1) • FIU (1) • Police (organized crimes, drug trafficking, arms smuggling, and other important crimes in the jurisdiction) (1-2) • Anti-corruption agency (1) • Ministry of Justice (1) • Customs Authority (1) • Tax Authority (1) • National Intelligence Agency (1) • Academia (1) | <p>MODULE 2 ML NATIONAL VULNERABILITY</p> <p>MODULE 8 TF NATIONAL VULNERABILITY Tab</p> |
| BANKING SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Banking supervisory agency (2-3) • Bankers association* • Other private sector representatives* • Academia (1) | <p>MODULE 3 BANKING SECTOR VULNERABILITY</p> |
| SECURITIES SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Securities sector supervisory agency/unit (2) • Stock exchange (1) • Sector representatives* | <p>MODULE 4 SECURITIES SECTOR VULNERABILITY</p> |
| INSURANCE SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Insurance supervisory agency/unit (2) • Sector representatives* | <p>MODULE 5 INSURANCE SECTOR VULNERABILITY</p> |
| OTHER FINANCIAL INSTITUTIONS TEAM | <ul style="list-style-type: none"> • FIU (1) • Supervisory agency for other financial institutions (exchange offices, money transfer services, etc.) (2-3) • Tax Authority (1) • Sector representatives* | <p>MODULE 6 OTHER FINANCIAL INSTITUTIONS VULNERABILITY</p> |
| DNFBP TEAM | <ul style="list-style-type: none"> • FIU (1) • Tax Authority (1) • Supervisory/self-regulatory bodies for DNFBPs (4-5) • Sector representatives (law societies, casinos, real estate agencies, accountants, etc.)* • Chamber of Commerce* • Academia (1) | <p>MODULE 7 DNFBP’S VULNERABILITY</p> |

Outputs of the Risk Assessment Process



A **diagnostic and decision-making tool** to inform the design of effective policies and prioritization of potential action.

Transparent and user-friendly. All the formulas and built-in calculations can be viewed and followed by users.

Focuses on **money laundering risks**. There is an additional module for assessing terrorist financing risks.

Can be **customized** to a country's economic context.

Balances the use of **quantitative** (data and statistics) and **qualitative information** (experience, anecdotal evidence, public or academic information, etc.)

Allows **scenario analysis**, to see the effects of various policy options.

| TEAMS | SUGGESTED PARTICIPANTS | RELEVANT MODULES |
|--|--|---|
| THREAT ASSESSMENT TEAM | <ul style="list-style-type: none"> • Prosecutor's Office (1) • FIU (1) • Police (organized crimes, drug trafficking, arms smuggling, and other important crimes in the jurisdiction) (1-2) • Anti-corruption agency (1) • Anti-drug agency (1) • Ministry of Justice (1) • Customs Authority (1) • Tax Authority (1) • National Intelligence Agency (1) • Academia (1) | <p>MODULE 1.A, B,C ML THREAT</p> <p>MODULE 8 TF THREAT Tabs</p> |
| NATIONAL VULNERABILITY TEAM | <ul style="list-style-type: none"> • Prosecutor's Office (1) • FIU (1) • Police (organized crimes, drug trafficking, arms smuggling, and other important crimes in the jurisdiction) (1-2) • Anti-corruption agency (1) • Ministry of Justice (1) • Customs Authority (1) • Tax Authority (1) • National Intelligence Agency (1) • Academia (1) | <p>MODULE 2 ML NATIONAL VULNERABILITY</p> <p>MODULE 8 TF NATIONAL VULNERABILITY Tab</p> |
| BANKING SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Banking supervisory agency (2-3) • Bankers association* • Other private sector representatives* • Academia (1) | <p>MODULE 3 BANKING SECTOR VULNERABILITY</p> |
| SECURITIES SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Securities sector supervisory agency/unit (2) • Stock exchange (1) • Sector representatives* | <p>MODULE 4 SECURITIES SECTOR VULNERABILITY</p> |
| INSURANCE SECTOR TEAM | <ul style="list-style-type: none"> • FIU (1) • Insurance supervisory agency/unit (2) • Sector representatives* | <p>MODULE 5 INSURANCE SECTOR VULNERABILITY</p> |
| OTHER FINANCIAL INSTITUTIONS TEAM | <ul style="list-style-type: none"> • FIU (1) • Supervisory agency for other financial institutions (exchange offices, money transfer services, etc.) (2-3) • Tax Authority (1) • Sector representatives* | <p>MODULE 6 OTHER FINANCIAL INSTITUTIONS VULNERABILITY</p> |
| DNFBP TEAM | <ul style="list-style-type: none"> • FIU (1) • Tax Authority (1) • Supervisory/self-regulatory bodies for DNFBPs (4-5) • Sector representatives (law societies, casinos, real estate agencies, accountants, etc.)* • Chamber of Commerce* • Academia (1) | <p>MODULE 7 DNFBP'S VULNERABILITY</p> |
| <i>(The section below applies only to countries that have, or intend to have, any financial inclusion products.)</i> | | |
| FINANCIAL INCLUSION PRODUCT RISK ASSESSMENT GROUP | <ul style="list-style-type: none"> • Banking supervision (1-2) • FIU (1-2) • Academia (specializing in financial inclusion, if any) • Regulators of other sectors that offer financial inclusion products/services | <p>MODULE 9 FINANCIAL INCLUSION PRODUCT RISK ASSESSMENT MODULE</p> |

*The participation these are at discretion of the county authorities.

TABLE 2 – WORKING GROUP TASKING CHART

| COUNTRY NRA WORKING GROUP | | | WORLD BANK TEAM |
|--|--|---|--|
| Coordinator | Team leaders | Team members | |
| Initiate NRA | | | |
| <ul style="list-style-type: none"> ▪ Send official NRA request to WB ▪ Stay in touch with WB team ▪ Identify draft timeframe ▪ Identify NRA team leaders ▪ Identify funding for local costs ▪ Identify who will draft the NRA report | | | <ul style="list-style-type: none"> ▪ Send official response to the request ▪ Identify video conference (VC) and first workshop (WS 1) dates ▪ Provide detailed timeline ▪ Provide instructions for NRA preparations (<i>this document</i>) |
| Video conference (2 months before WS 1) | | | |
| <ul style="list-style-type: none"> ▪ Coordinate VC with WB team ▪ Ensure the participation of team leaders | <ul style="list-style-type: none"> ▪ Participate in VC ▪ Commit to all responsibilities ▪ Obtain approval from your supervisor ▪ Confirm team members | | <ul style="list-style-type: none"> ▪ Explain WS 1 objectives ▪ Discuss and advise on process and logistics, and agenda for WS 1 ▪ Feedback on NRA team compositions ▪ Provide brief introduction to NRA Tool and process |
| Workshop 1 preparation (should start 2 months before the workshop date) | | | |
| <ul style="list-style-type: none"> ▪ Confirm location, facilities, and logistics (<i>Please refer to Guidance on Logistics</i>) ▪ Distribute agenda and NRA materials to NRA team leaders (and members) ▪ Print/Xerox WS materials for participants ▪ Distribute confirmed list of NRA teams ▪ Commence data and information collection (<i>please refer to Table 3</i>) | <ul style="list-style-type: none"> ▪ Ensure distribution of NRA Materials to team members ▪ Initiate pre-WS team meeting ▪ Appoint team <i>rapporteur</i> (note-taker) ▪ Commence data and information collection | <ul style="list-style-type: none"> ▪ Commence data and information collection ▪ Participate in team meetings ▪ Review WS materials | <ul style="list-style-type: none"> ▪ Email all NRA materials to Country Coordinator ▪ Advise Coordinator and teams as needed |
| Workshop 1 (3 days) | | | |
| <ul style="list-style-type: none"> ▪ Distribute hard copy WS 1 materials ▪ Support all logistics ▪ Actively participate in all sessions ▪ Collect team presentations and roadmaps ▪ Discuss and adopt general timetable, clearly communicate it to all WG members | <ul style="list-style-type: none"> ▪ Understand the NRA Tool and assessment methodology ▪ Follow the instructions in the guidance manuals: start the assessment by using the available data and information ▪ Identify the additional information and data needed ▪ Run the Excel templates by entering your initial ratings ▪ Identify initial findings ▪ Propose timetable to collect data and to complete assessment ▪ Divide tasks among the team members (e.g., template pages, data collection, drafting, etc.) ▪ Make group presentations | | <ul style="list-style-type: none"> ▪ Deliver WS1 ▪ Support and advise teams on discussions and templates |
| Completing the assessment and drafting of the NRA report (4-6 months following WS 1) | | | |
| <ul style="list-style-type: none"> ▪ Ensure teams complete the assessment and provide draft reports on time ▪ Harmonize team reports into an overall NRA draft report ▪ Where necessary, get in touch with the teams about improving the report ▪ Submit draft NRA report to WB team for review and comment ▪ Coordinate revision and finalize NRA report ▪ Commence the drafting of the action plans based on the assessment findings | <ul style="list-style-type: none"> ▪ Ensure team members meet deadlines ▪ Hold team meeting to discuss issues ▪ Compile drafts into draft team report ▪ Submit to Coordinator ▪ Revise and finalize relevant NRA report sections | <ul style="list-style-type: none"> ▪ Collect information/data ▪ Draft report sections ▪ Revise and finalize relevant NRA report sections | <ul style="list-style-type: none"> ▪ Advise teams as needed during data collection and drafting process ▪ Review the NRA report and the working papers and provide comments |
| Workshop 2 preparation (should start 2 months before the workshop date) | | | |
| <ul style="list-style-type: none"> ▪ Send revised NRA to WB ▪ Coordinate WS 2 logistics, facilities, invitations, equipment, meals, materials, etc. ▪ Consider NRA report dissemination strategy ▪ Identify who makes NRA presentation to policy level officials (on day 3) | <ul style="list-style-type: none"> ▪ Draft your action plans ▪ Provide these to the Coordinator on time | | <ul style="list-style-type: none"> ▪ Provide Coordinator with all instructions and materials for WS 2 |

| COUNTRY NRA WORKING GROUP | | | WORLD BANK TEAM |
|---|---|--------------|---|
| Coordinator | Team leaders | Team members | |
| Workshop 2 (3 days) | | | |
| <ul style="list-style-type: none"> ▪ Distribute hard copy WS materials ▪ Support all logistics ▪ Collect final presentations and action plans ▪ Adopt implementation plan based on action plans, with clear tasks, assignments, and deadlines | <ul style="list-style-type: none"> ▪ Participate in WS 2 | | <ul style="list-style-type: none"> ▪ Deliver WS2 |

TABLE 3 – DATA AND INFORMATION COLLECTION CHECKLIST

| SUBJECT | DATA AND INFORMATION TO BE COLLECTED |
|--|---|
| THREAT ANALYSIS | <ul style="list-style-type: none"> <input type="checkbox"/> Identify the sources of the proceeds of crime/most common predicate offense <i>(e.g., various forms of tax evasion, bribery, embezzlement, fraud, environmental crimes, etc.)</i> <input type="checkbox"/> Number of cases investigated/prosecuted/convicted (ML cases) <input type="checkbox"/> Number of cases investigated/prosecuted/convicted (for all the crimes that constitute a predicate offense for ML) <input type="checkbox"/> Amounts of the proceeds of crime identified in ML/TF cases, and the amounts seized, frozen, and confiscated <i>(breakdown according to underlying offense and what channels were used, e.g., banks, informal, securities, real estate, casinos, lawyers, etc.)</i> <input type="checkbox"/> Proceeds of crime seized, frozen, and confiscated, based on other laws/provisions <i>(e.g., related to drug trafficking, corruption, customs, etc.)</i> <input type="checkbox"/> Number of STRs referred to LEAs on predicate offenses <input type="checkbox"/> Detailed information on each ML/TF case, such as origin country, destination country, services/products involved, sectors and institutions involved, ML/TF methods, detected amount of illicit proceeds, average transaction size, number of the people involved, etc. (This needs to be done for the convicted and prosecuted ML/TF cases; if possible, this can be extended to investigated cases as well) <input type="checkbox"/> Information on ML/TF typologies within the country: what are the general patterns and trends? <input type="checkbox"/> Breakdown of financial inflows to the country <i>(according to the origin country, e.g., major trading partners of [name of country], IMF or WB information, etc.)</i> <input type="checkbox"/> Statistics on the mutual legal assistance requests <i>(with regard to ML, TF, and other financial crime: statistics of both incoming requests and outgoing requests)</i> <input type="checkbox"/> Information on the Central Authority (CA) on MLAR in [name of country]. Information on the quality of the working relationship between CA and investigative agencies/LEA? Rating on the level of inter-agency cooperation <input type="checkbox"/> Monthly and annual customs statistics on the visitors to the country, with the breakdown of nationalities, purpose, months, etc. <i>(from the immigration department, customs department, airport authorities, Ministry of Tourism, Tourism Board, and so on)</i> <input type="checkbox"/> Customs statistics on both in and out cash carrying, or cash smuggling <input type="checkbox"/> Data/statistics on entry of cash into the financial system; cross-border flows of cash; transfers within and from the financial system |
| NATIONAL COMBATING ABILITY ANALYSIS | <ul style="list-style-type: none"> <input type="checkbox"/> Detailed statistics on STRs reported to FIU, and disseminated by FIU to law enforcement <input type="checkbox"/> Information on quality of STRs and STR reporting system <input type="checkbox"/> Perception indices and surveys on the level of corruption/integrity of the law enforcement/prosecution/judicial system, and within the country in general <i>(e.g., corruption</i> |

| SUBJECT | DATA AND INFORMATION TO BE COLLECTED |
|--------------------------------|---|
| | <p><u>surveys by [name of country] anti-corruption agencies, NGOs, Transparency International, academics, etc.)</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Statistics on integrity breaches by ML investigators/law enforcement/prosecutors/judges (<u>e.g., Judicial Service Commission, tribunals, law society, police commission, etc.</u>) <input type="checkbox"/> Number of staff involved in ML investigations/prosecutions, and the adequacy of the resources allocated to them (<u>e.g., from the police, Attorney General/Public Prosecutor's Office, etc.</u>) <input type="checkbox"/> Information on the capacity of the ML/TF investigators, prosecutors, judges, and the AML/CFT training they received (<u>e.g., from the police, Attorney General/Public Prosecutor's Office, Registrar of the Judiciary, Ministry of Home Affairs, etc.</u>) <input type="checkbox"/> Information on inter-agency capacity building workshops on ML/TF, and the level of cooperation/networking that led to results (<u>i.e., increase in prosecution rate</u>) <input type="checkbox"/> Statistics on criminal penalties given in ML convictions (<u>e.g., from the Registrar of the Judiciary, Attorney General/Public Prosecutor's Office, Ministry of Justice, School of Law, etc.</u>) <input type="checkbox"/> Information on the national identification system and the availability of independent, reliable sources to determine transaction patterns of clients (<u>e.g., immigration department, National Registration Office, etc.</u>) |
| <p>SPECIFIC SECTORS</p> | <ul style="list-style-type: none"> <input type="checkbox"/> Guidance notes/recommendations on the prevention of ML in the specific sectors (banking, securities, DNFBPs, insurance, and FIs) to oversee the issue of guidelines to facilitate the implementation of laws, rules, regulations, and directives of the Central Bank of [name of country]? <input type="checkbox"/> Information on the size, depth, and characteristics of the sector. Importance/share of the sector in the country's economy (GDP). Comparison of the size of the sector with countries in the region, peer countries, advanced economies, etc. (<u>Central Bank of [name of country], Ministry of Finance, and Chamber of Commerce, etc.</u>) <input type="checkbox"/> Information on AML monitoring system, and data collection systems in banking/securities/insurance/and other sectors (<u>Central Bank, bankers, insurance and securities associations, academics, sample of individual institutions, etc.</u>) <input type="checkbox"/> Information on AML software used by LEA, FIU (i2, goAML, etc.). Do reporting entities provide all information the FIU online? Rate the quality of information provided. Does such information assist in the detection of suspicious transactions and the creation of an effective "audit trail" in the event of an investigation? <input type="checkbox"/> Staff knowledge in banks, insurance companies, etc. (statistics on AML training given to staff, statistics on training by authorities to banks, insurance companies, etc.) (<u>Central Bank, bank, insurance, securities associations, etc.</u>) <input type="checkbox"/> Staff integrity in sectors (statistics on integrity breaches, findings of on-site/off-site examinations) (<u>Central Bank, Insurance Regulator, Securities Regulator, etc.</u>) <input type="checkbox"/> Information on AML/CFT supervision (framework for on-site/off-site supervision, adequacy of the supervision, supervision procedures, statistics on the number of staff taking part in on-site/off-site examinations, number of institutions examined, statistics and information on main findings of on-site/off-site examinations, statistics on corrective actions taken in case of breaches, etc.) (<u>Central Bank, Insurance Regulator, Securities Regulator, etc.</u>) <input type="checkbox"/> Has the Central Bank, as part of its supervisory process, carried out an assessment of the adequacy of the procedures (i.e., internal controls, policies, and procedures) that have been adopted to counter ML, as well as an assessment to the degree of compliance with such procedures? |

| SUBJECT | DATA AND INFORMATION TO BE COLLECTED |
|--|---|
| | |
| PRODUCT ANALYSIS | <p><u>For the banking, securities, and insurance sectors (information to be provided by individual institutions):</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Prepare a list of all the products/services offered by the banking, securities, and insurance sectors <input type="checkbox"/> For the securities and insurance sectors, in addition to product/service breakdown, identify the categories/types of service providers <input type="checkbox"/> Data on the total assets/liabilities/total turnover/total premium income associated with different products/services <input type="checkbox"/> Data on the total volume and average transaction size for each product/service/channel. The amount of associated assets, liabilities, or turnover can serve as an indicator of the volume. Average transaction size does not need to be precise and can be estimated based on sampling/interviews with the sector <input type="checkbox"/> Statistics for each of the products on PEPs and other high-risk customers, international transactions, transactions with offshore centers/tax havens, high-risk regions, etc. <input type="checkbox"/> Information on the client risk profiling and monitoring systems of financial institutions <p><u>Other Financial Institutions/DNFBPs (casinos, real estate, lawyers, dealers in precious metals and other stones, remittance agents, accountants, etc.):</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Prepare a list of other regulated and unregulated FIs/DNFBPs within the country (the types/categories of institutions/market players, not a list of institutions) <input type="checkbox"/> Data on the number of reporting entities/persons, their asset size/volume/turnover (for each type of FIs and DNFBPs) <i>(check with Gambling Board and self-regulatory organizations such as law societies, accountants associations, real estate associations, etc.)</i> <input type="checkbox"/> Quantitative/qualitative information on the share/impact of each Other FI/DNFBP category on the country's economy <input type="checkbox"/> Statistics/data on the availability of cash intensive products, the frequency or % of international transactions, and % of customers who pose higher risk for each type of Other FIs and DNFBPs <input type="checkbox"/> Data on the number of ML cases and STRs, the statistics on on-site/off-site inspections, and the AML regulations/supervision/monitoring systems for each type of Other FI and DNFBP <input type="checkbox"/> Are there any specific templates available? <input type="checkbox"/> Any reports/information available on ML links between banks/FIs and/or currency exchange houses, brokerages, gold dealers, real estate dealers, insurance companies, trading companies, and others selling high-value commodities and luxury goods? |
| <i>(The section below only applies to the countries that have, or intend to have, any financial inclusion products.)</i> | |
| FINANCIAL INCLUSION PRODUCTS/ SERVICES | <ul style="list-style-type: none"> <input type="checkbox"/> Information on the current regulatory framework. Discuss whether the regulatory framework recognizes simplification in low-risk situations. If it does, under what conditions, and what kind of |

| SUBJECT | DATA AND INFORMATION TO BE COLLECTED |
|--------------------------|--|
| | <p>simplification? Does the current framework adequately accommodate financial inclusion? If not, what are the problems?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Information on the policies/procedures for the launch of any financial inclusion products/services (with simplified CDD, etc.). Are there any pre-authorization processes? What is the involvement of the regulatory authority? <input type="checkbox"/> Information on the financial inclusion product/services already being offered by the financial or non-financial sectors <input type="checkbox"/> Information on the financial inclusion product/services being planned by the financial or non-financial sectors <input type="checkbox"/> Information on the simplification/exemptions associated with the existing financial inclusion product/services |
| OTHER INFORMATION | <ul style="list-style-type: none"> <input type="checkbox"/> Information from most recent Mutual Evaluation Report. Any information on the ML/TF risks, weaknesses, gaps, deficiencies, or problems in the country need to be extracted from most recent MER <input type="checkbox"/> Information from other sources on potential ML activities related to sectors (public information, academic reports, studies, intelligence, etc.) |

TABLE 4 – PREPARATION QUESTIONS

| TEAMS | PREPARATION QUESTIONS |
|------------------------|--|
| ALL TEAMS | <p>Assessment of threats and vulnerabilities</p> <p><i>Threat assessment</i></p> <ul style="list-style-type: none"> • What do we mean by threat? What is the difference between threat and risk? • What are the components of the assessment? • What are the indicators? <p><i>National vulnerability</i></p> <ul style="list-style-type: none"> • What do we mean by national vulnerability? • What are the components of the assessment? • What are the indicators? <p><i>Sector vulnerability</i></p> <ul style="list-style-type: none"> • What do we mean by sector vulnerability? • What are the components of the assessment? • What are the indicators? • What sectors should we take into consideration? <p>Assessment of financial inclusion products</p> <ul style="list-style-type: none"> • What are financial inclusion products? • What are the components of the assessment? • What are the indicators? • What financial inclusion products are available in [name of country]? <p>Data, statistics, and information to support risk assessment</p> <ul style="list-style-type: none"> • What to collect? • How to collect? • From whom? (Quantitative and qualitative information, interviews, questionnaires, academics, think-tanks, etc.) • How to exchange confidential data within the WG? What are the parameters of what can/should be shared between the different authorities? • What data can be shared with the private sector representatives? |
| THREAT ASSESSMENT TEAM | <p><i>Threat assessment (proceeds of crime and terrorism financing)</i></p> <ul style="list-style-type: none"> • Definition: Threats criminals/activities pose to economy and geography, with external and domestic threats • Components: Offenses – long list of predicates (must differentiate the threat from the offense versus the threat of ML-related to the offense) • Indicators: Number of cases, prosecutions, convictions, amounts involved, amounts confiscated/forfeited, etc. • What type of crimes are proceeds generating in [name of country]? E.g., drug trafficking, fraud, smuggling, car thefts, etc. • What factors facilitate the commission of such proceed-generating activities? E.g., corruption, internet, money laundering, etc. • Who are the perpetrators of these criminal activities? Are they domestic? Are they external, from outside [name of country]? E.g., criminal networks in [name of country], criminal networks from outside, ordinary individuals, etc. • How much money is generated by each of the proceed-generating crimes? How much has been seized, frozen, or confiscated? How do you calculate the proceeds of crime? Is it by each case reported, investigated, or prosecuted, or it is by conviction? What is the methodology of documenting the proceeds of crime? |

| TEAMS | PREPARATION QUESTIONS |
|--|--|
| | <ul style="list-style-type: none"> • What channels are used to launder the proceeds of crime in [name of country]? Through the banking, securities, insurance, real estate, or legal sectors? <p>Terrorism financing</p> <ul style="list-style-type: none"> • What is the nature and scope of the terrorism financing in [name of country]? How is money that finances terrorism raised (e.g., non-profit organizations)? Is it domestic, external, or both? • How much money has been generated to support terrorism? What are the sources of the money? • Comparing data on terrorism financing, how has it varied over the last 5 years? • Are there any terrorism financing cases that have been investigated and prosecuted by the police and the prosecution? • Are there any known (external) cases in other jurisdictions, concerning terrorism financing in [name of country]? |
| NATIONAL VULNERABILITY TEAM | <p>National vulnerability</p> <ul style="list-style-type: none"> • Definition: Weaknesses in systems, institutional mechanisms, sectors, political commitment, etc. • Components: Resources, quality, buy-in, sectors, integrity, regulations, transparency, cooperation, etc. • Indicators: Training, operational independence, non-existent or weak policy, no inter-agency cooperation, etc. <p>National combating ability</p> <ul style="list-style-type: none"> • What is the capacity of law enforcement agencies to investigate financial crimes in [name of country]? • What is the capacity of prosecutors to successfully prosecute financial crimes in [name of country]? • What is the capacity of judges to adjudicate financial crime cases? • What is the capacity of prosecutors/judges in asset forfeiture cases? • How is the culture of integrity within law enforcement, prosecution, and judicial authorities? • How efficient is the identification system in [name of country]? • How is the culture of corporate and trust transparency in [name of country]? • How is the culture of tax compliance in [name of country]? |
| BANKING SECTOR TEAM | <p>Sector vulnerability</p> <ul style="list-style-type: none"> • Definition: In-depth focus on individual sectors and the vulnerabilities therein • Components: Banking, securities, insurance, MSBs, DNFBPs (casinos, car dealers, real estate agencies, lawyers, accountants, notaries, travel agent agencies, dealers in precious metals and stones, offshore Trust And Company Service Providers) • What products and services are offered in the individual sector? • What is the size of the individual sector as a component of the overall economy size? • What are the financial flows into and out of [name of country]? What are the major sources of financial flows into [name of country]? • What is the quality of the regulation and supervision in the individual sector, with respect to general prudential or compliance with the general rules of the individual sector? What of AML/CFT compliance; what is the quality of supervision? • What record-keeping systems are available for each of the individual sectors? How easy is it for authorities to get access to these record-keeping systems? • How knowledgeable are the staff that work in the individual sectors to the nature of the risk profile of [name of country]? How much AML/CFT knowledge do they have? |
| SECURITIES SECTOR TEAM | |
| INSURANCE SECTOR TEAM | |
| OTHER FINANCIAL INSTITUTION TEAM | |
| DNFBPs TEAM | |
| <i>(The section below only applies to the countries that have, or intend to have, any financial inclusion products.)</i> | |
| FINANCIAL INCLUSION PRODUCT RISK ASSESSMENT | <p>Financial inclusion</p> <ul style="list-style-type: none"> • How is financial inclusion in [name of country] defined? • What types of financial products are offered in [name of country]? • Which sectors offer financial inclusion products? • To whom? Who are the major clients of financial inclusion products? |

| | |
|-------|---|
| TEAMS | PREPARATION QUESTIONS |
| | <ul style="list-style-type: none"> Are there any limitations on such products? |

Annex 10: Variables for National Combating Ability

| | A | B | C | D |
|----|--|--------------------|--------------------|---|
| 1 | A. INPUT VARIABLES/NATIONAL ML COMBATING ABILITY FACTORS | Risk rating | Description | |
| 2 | Quality of AML Policy and Strategy | 0.5 | Medium | |
| 3 | Effectiveness of ML Crime Definition | 0.8 | Very High | |
| 4 | Comprehensiveness of Asset Forfeiture Laws | 0.7 | High | |
| 5 | Quality of FIU Intelligence Gathering and Processing | 0.6 | Medium High | |
| 6 | Capacity and Resources for Financial Crime Investigations (incl. AF) | 0.5 | Medium | |
| 7 | Integrity and Independence of Financial Crime Investigators (incl. AF) | 0.6 | Medium High | |
| 8 | Capacity and Resources for Financial Crime Prosecutions (incl. AF) | 0.5 | Medium | |
| 9 | Integrity and Independence of Financial Crime Prosecutors (incl. AF) | 0.7 | High | |
| 10 | Capacity and Resources for Judicial Processes (incl. AF) | 0.6 | Medium High | |
| 11 | Integrity and Independence of Judges (incl. AF) | 0.6 | Medium High | |
| 12 | Quality of Border Controls | 0.4 | Medium Low | |
| 13 | Comprehensiveness of Customs Regime on Cash and Similar Instruments | 0.6 | Medium High | |
| 14 | Effectiveness of Customs Controls on Cash and Similar Instruments | 0.4 | Medium Low | |
| 15 | Effectiveness of Domestic Cooperation | 0.6 | Medium High | |
| 16 | Effectiveness of International Cooperation | 0.7 | High | |
| 17 | Formalization Level of Economy | 0.4 | Medium Low | |
| 18 | Level of Financial Integrity | 0.6 | Medium High | |
| 19 | Effectiveness of Tax Enforcement | 0.5 | Medium | |
| 20 | Availability of Independent Audit | 0.3 | Low | |
| 21 | Availability of Reliable Identification Infrastructure | 1 | Excellent | |
| 22 | Availability of Independent Information Sources | 0.3 | Low | |
| 23 | Availability and Access to Beneficial Ownership Information | 0.5 | Medium | |
| 24 | | | | |
| 25 | | | | |
| 26 | | | | |
| 27 | | | | |



Annex 11: FSA Questionnaire

The questions on this page apply to all licensees



| | |
|--------------------|--|
| Date of completion | |
|--------------------|--|

Annex 11: Questions about your staff

| Reference guideline under NRA | Question # | Question |
|-------------------------------|------------|--|
| 4.1.6 | 1 | Please advise on your current number of employees based... |
| | | in Seychelles (compliance staff) |
| | | in Seychelles (other staff) |
| | | Outside Seychelles (compliance staff) |
| | | Outside Seychelles (other staff) |

| Reference guideline under NRA | Question # | Question | | | |
|-------------------------------|------------|--|---------------|--------------|------------------|
| 4.1.6 | 2 | Please provide details of any of the following AML related business functions if performed on your behalf by any third parties or part of your group based in a different jurisdiction | | | |
| | | | Undertaken by | Jurisdiction | Regulated there? |
| | | Key staff vetting | | | |
| | | Client onboarding | | | |
| | | Anti-money laundering screening & investigations | | | |
| | | Sanctions screening & investigations | | | |
| | | Negative press screening & investigations | | | |
| | | If you have answered "No" or "Unknown" to the above question, please use this space to explain | | | |

| Reference guideline under NRA | Question # | Question | | | |
|-------------------------------|------------|---|------------------|-----------------|-----------------|
| 4.1.6 | 3 | Please confirm which actions are undertaken when recruiting employees | | | |
| | | | Compliance staff | Other key staff | Other employees |
| | | Verify name & residential address | | | |
| | | Check if the individual should be considered as a PEP | | | |
| | | Check individual against sanctions lists | | | |
| | | Check for any negative press against the individual | | | |
| | | Confirm employment history & references | | | |
| | | Request details on any regulatory action taken against the individual | | | |

| | | | |
|--|----|---|--|
| | 11 | How frequently are the staff in your organisation updated on domestic and transnational money laundering schemes and typologies? (including involving the misuse of the firms products and specialised knowledge and skills of the staff) | |
|--|----|---|--|

| | | | | | |
|--|----|--|--------------|---------------------|---------------------------------------|
| | 12 | Please detail the experience of your senior compliance staff | | | |
| | | | Time in role | Industry experience | Member of relevant professional body? |
| | | Money Laundering Reporting Officer | | | |
| | | Deputy Money Laundering Reporting Officer | | | |
| | | Compliance Officer (1) | | | |
| | | Compliance Officer (2) | | | |
| | | Compliance Officer (3) | | | |
| | | If you have answered "Na" or "Unknown" to the above question, please use this space to explain | | | |
| | | | | | |

| | | | |
|--|----|--|--|
| | 13 | How would you rate the level of awareness of your staff of AML compliance, reporting procedures and obligations? | |
|--|----|--|--|

| | | | |
|--|----|---|--|
| | 14 | How would you rate the level of awareness of your staff of the legal consequences of AML compliance breaches? | |
|--|----|---|--|

| | | | |
|--|----|--|--|
| | 15 | How frequently are AML training given by public authorities? | |
|--|----|--|--|

Questions about effectiveness of compliance function

| Reference guideline under NRA | Question # | Question |
|-------------------------------|------------|---|
| 4.1.8 | 16 | Does your organisation have an internal compliance program? |

| | | | |
|-------|----|--|-----------|
| 4.1.8 | 17 | In answering question 16 above, are the following included as part of your compliance program? | |
| | | Factors | included? |
| | | institution type | |
| | | volume and nature of the products provided | |
| | | client based profile | |
| | | transaction patterns | |
| | | cross-border nature of transactions | |

| | | | |
|-------|----|--|--|
| 4.1.8 | 18 | how frequently are AML on-site and off-site investigations carried out internally? | |
|-------|----|--|--|

| | | | |
|-------|----|--|--|
| 4.1.8 | 19 | how frequently are AML on-site and off-site investigations carried out by FIU? | |
| 4.1.8 | 20 | Has there been any declined business or terminated business relationships based on recommendations of your compliance staff? if yes, kindly provide statistics here | |
| 4.1.8 | 21 | Has your organisation ever taken an external AML audit? | |

Questions about effectiveness of suspicious activity monitoring and reporting

| Reference guideline under NRA | Question # | Question | |
|-------------------------------|--|--|--|
| 4.1.9 | 22 | Please confirm how you store your documentation and information (D= documentation, I= information) | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | Storage method | Retention period | |
| | Client application forms (D) | | |
| | Proof of address & identification (D) | | |
| | Source of funds/wealth (D) | | |
| | STR and related documentation (D) | | |
| | Client name, address, date of birth (I) | | |
| | Client nationality (I) | | |
| | Client gender (I) | | |
| | Client occupation - role, employer, salary (I) | | |
| | Client source of funds/wealth (I) | | |
| | Payment details - amounts, beneficiary and remitter name & address, bank name & country, narrative | | |
| | If you have answered "N/A", "Unknown" or "Other" anywhere above please use this space to explain | | |

| | | | |
|-------|----|---|--|
| 4.1.9 | 23 | if needed, can you obtain all documentation detailed in the above question within 7 days | |
| | | if you have answered "N/A" or "Unknown" to the above question, please use this space to explain | |
| | | | |

| | | |
|-------|----|--|
| 4.1.9 | 24 | Regarding the question above... |
| | | a) what challenges are there that may prevent you from being able to obtain the documentation within 7 days? |
| | | |

b) what actions have you taken to mitigate those challenges?

| | | |
|-------|----|---|
| 4.1.9 | 27 | Please provide your opinion on the following: |
| | a) | The FIU's reporting requirements and procedures |

| | | |
|-------|----|---|
| 4.1.9 | b) | Feedback from the FIU in relation to your STR reports |
|-------|----|---|

| | | |
|-------|----|---|
| 4.1.9 | 28 | Do you have any feedback or suggestions on how the STR process could be improved? |
|-------|----|---|

| | | |
|-------|----|---|
| 4.1.9 | 29 | Please confirm when the following procedures were last reviewed/updated |
|-------|----|---|

AML/CTF policy

PEP policy

Information sharing for AML/CTF purposes

seeking appropriate consent in relation to sanctions

Questions about Level of market pressure to meet AML standards

| Reference guideline under NRA | Question # | Question |
|-------------------------------|------------|----------|
|-------------------------------|------------|----------|

| | | |
|--|----|--|
| | 30 | Does your organisation have any cross-border correspondent relationship that requires your organisation to meet international AML standards? |
|--|----|--|

| | | |
|--|----|--|
| | 31 | Is your organisation sensitive to international and national AML-related reputational risks? |
|--|----|--|

| | | | |
|-------|---|---|--------------------|
| 4.2.3 | 6 | please indicate how you do business with your clients: | % Clients (Approx) |
| | | Direct | |
| | | Via an eligible introducer arrangement | |
| | | Via another intermediary arrangement | |
| | | Introduced from part of your group | |
| | | If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | |
| | | | |

| | | | |
|-------|---|---|--|
| 4.2.3 | 7 | How often do you communicate with your clients using the following method below? | |
| | | face to face meetings | |
| | | via email | |
| | | via website | |
| | | post | |
| | | phone | |
| | | fax | |
| | | via an intermediary | |
| | | If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | |
| | | | |

| | | | | | | |
|-------|---|---|----------------------|------------------------|------------------------|------------------------|
| 4.2.3 | 8 | Please indicate the most common countries of residency and nationality of your personal clients | | | | |
| | | | Country of residence | % Client base (Approx) | Country of nationality | % Client base (Approx) |
| | | 1 | | | | |
| | | 2 | | | | |
| | | 3 | | | | |
| | | 4 | | | | |
| | | 5 | | | | |
| | | 6 | | | | |
| | | 7 | | | | |
| | | 8 | | | | |
| | | 9 | | | | |
| | | 10 | | | | |
| | | If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | | | | |
| | | | | | | |

| | | | | | |
|---|----|--|------------------------|------------------------|------------------------|
| 4.2.3 | 9 | Please indicate the most common countries of residency and nationality of the beneficial owners of your non-personal clients | | | |
| | | Country of residence | % Client base (Approx) | Country of nationality | % Client base (Approx) |
| | 1 | | | | |
| | 2 | | | | |
| | 3 | | | | |
| | 4 | | | | |
| | 5 | | | | |
| | 6 | | | | |
| | 7 | | | | |
| | 8 | | | | |
| | 9 | | | | |
| | 10 | | | | |
| If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | | | | | |
| | | | | | |

| | | | | | |
|---|----|--|------------------------|------------------------|------------------------|
| 4.2.3 | 10 | Please indicate the most common countries of registered office and correspondence address of your non-personal clients | | | |
| | | Country of residence | % Client base (Approx) | Country of nationality | % Client base (Approx) |
| | 1 | | | | |
| | 2 | | | | |
| | 3 | | | | |
| | 4 | | | | |
| | 5 | | | | |
| | 6 | | | | |
| | 7 | | | | |
| | 8 | | | | |
| | 9 | | | | |
| | 10 | | | | |
| If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | | | | | |
| | | | | | |

| | | | |
|-------|----|--|---|
| 4.2.3 | 11 | Please indicate the approximate percentage of your client base belonging to the various industry categories listed below: | |
| | | Personal clients: Occupation/primary source of wealth | Non-personal clients: Nature of business |
| | | Unknown | |
| | | <i>Aerospace (Global satellite companies, international space associations, dealing with orbital slots)</i> | |
| | | <i>Basic Materials - Basic resources (Forestry & paper, industrial metals, mining)</i> | |
| | | <i>Basic Materials - Chemicals (Commodity & speciality chemicals)</i> | |
| | | <i>Consumer Goods - Automobiles & Parts (Auto parts, automobiles, tyres)</i> | |
| | | <i>Consumer Goods - Food & Beverage (Brewers, distillers, winemakers, soft drinks, food producers, farming, fishing, food products)</i> | |
| | | <i>Consumer Goods - Personal & Household (Household goods, leisure goods, personal goods, toys, consumer electronics, clothing, tobacco)</i> | |
| | | <i>Consumer Services - Media (Broadcasting, entertainment, media agencies, publishing)</i> | |
| | | <i>Consumer Services - Retail (Food & drug retailers, apparel, bookstore, home improvements, specialised consumer services)</i> | |
| | | <i>Consumer Services - Travel & Leisure (Airlines, gambling, hotel, restaurant, bars, travel, tourism)</i> | |
| | | <i>Consumer Services - Gambling & e-gaming</i> | |
| | | <i>Clean technology (Renewable energy, wind-farming etc)</i> | |
| | | <i>Financials - Banks</i> | |
| | | <i>Financials - Aviation (Financing, leasing and ownership/management structures)</i> | |
| | | <i>Financials - Financial Services (Equity investment instruments, general financial non equity investment)</i> | |
| | | <i>Financials - Insurance & Pensions (Full life insurance, brokers, property & casualty insurance, re-insurance)</i> | |

| | | | | | | | |
|-------|----|---|-----|----------|-----------|--------------|----------|
| 4.2.3 | 13 | when taking on new business, please confirm what information would be required and/or verified for personal clients | | | | | |
| | | | Low | Standard | High Risk | PEP Standard | PEP High |
| | | Name, address, date of birth | | | | | |
| | | Nationality | | | | | |
| | | Gender | | | | | |
| | | Occupation - role, salary, employer | | | | | |
| | | Dual nationality | | | | | |
| | | Tax residency | | | | | |
| | | Tax identification number | | | | | |
| | | Source of funds | | | | | |
| | | Source of wealth | | | | | |
| | | Reason for application/intended usage | | | | | |
| | | Expected activity/turnover | | | | | |
| | | If you have answered "Wa" or "Unknown" to the above question, please use this space to explain | | | | | |
| | | | | | | | |

| | | | | | | | |
|-------|----|---|-----|----------|-----------|--------------|----------|
| 4.2.3 | 14 | when taking on new business, please confirm what information would be required and/or verified for non-personal clients | | | | | |
| | | | Low | Standard | High Risk | PEP Standard | PEP High |
| | | Full name | | | | | |
| | | Date of incorporation | | | | | |
| | | Registered address | | | | | |
| | | Nature of business | | | | | |
| | | Location of operations | | | | | |
| | | Reason for application/intended usage | | | | | |
| | | Expected activity/turnover | | | | | |
| | | If you have answered "Wa" or "Unknown" to the above question, please use this space to explain | | | | | |
| | | | | | | | |

| | | | | | | | |
|-------------------------------------|----|--|-----|----------|-----------|--------------|----------|
| 4.2.3 | 15 | when taking on new business, please confirm what information would be required and/or verified for the beneficial owners of non-personal clients | | | | | |
| | | | Low | Standard | High Risk | PEP Standard | PEP High |
| | | Name, address, date of birth | | | | | |
| | | Nationality | | | | | |
| | | Gender | | | | | |
| Occupation - role, salary, employer | | | | | | | |

| | | | | |
|---|--|--|--|--|
| At a suspicious activity trigger event | | | | |
| If you have answered "N/A" or "Unknown" to the above question, please use this space to explain | | | | |
| | | | | |

| | | | | |
|-------|----|---|----------------------|---------------------|
| 4.2.3 | 20 | Please indicate if you screen the following against the various types of sanctions lists | | |
| | | Sanctioned individuals, entities & vessels | Sanctioned countries | Restricted activity |
| | | beneficiary/remitter name | | |
| | | Payment beneficiary/remitter | | |
| | | Payment narrative | | |
| | | New client - name | | |
| | | New client - address | | |
| | | occupation/income | | |
| | | Client - change of name | | |
| | | Client - change of address | | |
| | | If you have answered "N/A" or "Unknown" to the above question, please use this space to explain | | |

| | | |
|-------|----|---|
| 4.2.3 | 21 | Please use this space to detail what (if any PEP, Sanctions or Negative Press) name screening is carried out on the underlying parties of your clients. |
|-------|----|---|

| | | |
|-------|----|--|
| 4.2.3 | 22 | Please use this space to list any systems used in relation to PEP, Sanctions or Negative Press screening |
| | | |

| | | |
|-------|----|---|
| 4.2.3 | 23 | Which of the following sanctions lists/requirements do you adhere to? |
| | | Seychelles |
| | | EU (European Union) |
| | | OFAC (Office of Foreign Assets Control) |
| | | Other (please detail in comments box) |
| | | |
| | | If you have answered "N/A" or "Unknown" to the above question, please use this space to explain |
| | | |



! The questions on this page apply only to Investment Advisors !



| | | | | |
|---|-----------------|-----------|--------|-----------------------|
| 1 Please confirm how many of the following types of client you had... | | | | |
| | Natural persons | Companies | Trusts | Foundations/Charities |
| This year to date | | | | |
| At year end 2015 | | | | |
| At year end 2014 | | | | |
| At year end 2013 | | | | |
| If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | | | | |
| | | | | |

| | |
|--|--|
| 2 Please confirm which of the following products and services you currently offer to your clients | |
| Managing investments belonging to another person in circumstances involving the exercise of discretion | |
| Advising a trustee or manager of a retirement benefits scheme | |
| Advising any person (other than a trustee or manager in a retirements benefit scheme) in his capacity as an investor or potential investor or advising the attorney of an investor or potential investor | |

| |
|---|
| 3 Please use the space below to provide details of any AML/CFT vulnerabilities that are specific to any of the activities listed above |
| |

| | |
|---|-----------------------------------|
| 4 Please confirm any countries where you hold bank accounts outside of the Seychelles (up to 10) | |
| | Countries where accounts are held |
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |

| | |
|--|--|
| 10 | |
| If you have answered "N/a or "Unknown" to the above question, please use this space to explain | |
| | |

| | | | | |
|---|--|---------------------|---------------------|---------------------------------|
| 5 | Please indicate the percentage of investments in the following types of assets over the recent years | | | |
| | this year to date | at year end 2015 | at year end 2014 | at year end at year end 2013 |
| | listed securities | | | |
| | unlisted assets such as: | | | |
| | shares | | | |
| | real estate | | | |
| | others | | | |

| | |
|---|--|
| 4 | Please confirm any countries where you hold bank accounts outside of the Seychelles (up to 10) |
| Countries where accounts are held | |
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
| If you have answered "N/a" or "Unknown" to the above question, please use this space to explain | |
| | |

| | | |
|----|--|--|
| 5a | Please indicate whether you deal in listed securities | |
| 5b | Please indicate whether you deal in unlisted securities or other unlisted assets | |
| 5c | Please detail the type of unlisted securities or assets for 5(b) above here | |

| | |
|---|---|
| 6 | If you have answered "N/a" or "Unknown" to the above question, please use this space to explain |
| | |

| | | this year to date | 2015 | 2014 | 2013 |
|----|--|-------------------|------|------|------|
| 7a | if you answered yes to 5a above, please indicate the aggregate value of turnover when dealing in listed securities for the following years | | | | |
| 7b | if you answered yes to 5b above, please indicate the aggregate value of turnover when dealing in unlisted securities or assets for the following years | | | | |



! Services to Collective Investment Schemes !



| | | |
|----------|---|--|
| 1 | Please confirm which of the following account types you currently offer to your clients | |
| | Acting as manager | |
| | Acting as administrator | |
| | Acting as trustee | |
| | Acting as fiduciary | |
| | Acting as custodian | |
| | Acting as asset manager | |
| | Acting as investment advisor | |
| | Acting as promoter | |
| | Providing management or administration services (to a person listed above) - without undertaking investor due diligence | |
| | Providing management or administration services (to a person listed above) - including investor due diligence | |
| | Providing administration services to the manager or administrator where located outside the Island - without undertaking investor due diligence | |
| | Providing administration services to the manager or administrator where located outside the Island - without undertaking investor due diligence | |
| | Acting as manager, administrator, trustee, fiduciary custodian or custodian to an exempt scheme | |
| | Providing administration services to a person who is exempt from licensing | |
| | Providing services in relation to an individually recognised scheme | |
| | Please use the space below to provide details of any AML/CFT vulnerabilities that are specific to any of the activities listed above | |
| | | |

| | | |
|----------|---|-------------------|
| 2 | Please confirm the size of investment within the schemes to which you act, broken down by: | |
| | <i>Note: This question applies where you are acting as the manager or administrator of schemes (including exempt schemes)</i> | |
| | Directly held by investor | Held by a nominee |
| | This year to date | |
| | At year end 2015 | |
| | At year end 2014 | |
| | At year end 2013 | |

3 Please confirm, in aggregate for all schemes to which you provide services, how many investors those schemes have by type of investor...

Note: This question applies where you are acting as the manager or administrator of schemes (including exempt schemes)

| | | | | | |
|--|---------|-----------|--------|--------------|-----------------------|
| | natural | companies | Trusts | Foundations/ | Other (please detail) |
|--|---------|-----------|--------|--------------|-----------------------|



! The questions on this page apply only to licence holders who handle client money !



1 Please state how many client money accounts you held and the total balances of those accounts...

| | No. of accounts | Total balances |
|-------------------|-----------------|----------------|
| This year to date | | |
| At year end 2015 | | |
| At year end 2014 | | |
| At year end 2013 | | |

2 What was the total volume and value of the credits that passed through those accounts

| | Credits - volume | Credits - total value (SCR) | Debits volume | Debits- total value (SCR) |
|----------------------------|------------------|-----------------------------|---------------|---------------------------|
| This year to date | | | | |
| At the end of Q1 last year | | | | |
| At the end of Q2 last year | | | | |
| At the end of Q3 last year | | | | |
| At the end of Q4 last year | | | | |

3 Please indicate the total value of subscriptions and redemptions passed through client accounts where the source/destination of funds was to/from outside Seychelles

| | Redemptions | Subscriptions |
|-------------------|-------------|---------------|
| This year to date | | |
| At year end 2015 | | |
| At year end 2014 | | |
| At year end 2013 | | |

4 Please use this space to provide detail on (a) what you would do if money was received into a client money account from a non-client and (b) what identification procedures are applied when making payments from a client money account to a non-client

Financial Services Authority National Risk Assessment Questionnaire

* Required



Background

The Government of the Republic of Seychelles attaches great importance to the maintenance of high standards of international cooperation in the fight against financial crime as well as financial regulation and supervision. Additionally it is committed towards its continued effort to further strengthen compliance with international standards, including the standards set out in the Recommendations of the Financial Action Task Force (FATF).

The FATF Recommendations were revised in February 2012 to strengthen the requirements for higher risk situations and to allow countries to take a more focused approach in areas of high risks or where implementation could be enhanced.

FATF Recommendation 1 calls on countries to identify, assess and understand the Money Laundering (ML) and Terrorist Financing (TF) risks they face as a jurisdiction and to designate an authority to co-ordinate actions to assess risks. To this end, a National Risk Assessment (NRA) technical working group with representatives from different sectors of the economy along with Government representatives has been established with the task of identifying, assessing and understanding the risks of money laundering and terrorist financing that the country faces. This will allow the country to adopt appropriate measures to mitigate these risks.

In this context, the Financial Services Authority ("FSA"), in its capacity as the Regulator for the Non-Banking Financial Services Sector and other members of the working group, have devised a questionnaire to be disseminated to the Financial Intelligence Unit ("FIU"). Data collected from the survey will provide a useful, actionable insight on the ML and TR risks faced within the sector.

Instruction

ALL INFORMATION SUBMITTED IN YOUR RESPONSES TO THIS QUESTIONNAIRE IS CONFIDENTIAL AND WILL BE USED ONLY FOR THE PURPOSE OF THE NATIONAL RISK ASSESSMENT

- i. Due to the nature of the questions, you may find it useful to review the Questionnaire in full prior to completion, to assist in the collation of the data and information necessary to enable you to complete the survey.
- ii. The Questionnaire consists of three sections, each relating to certain specific variables. Some questions you are required to;
 - a. select "Yes", "No" or "N/a" (where the question is not applicable for the FIU); and
 - b. provide sufficient information/explanation/clarification.
- iii. In order to undertake an effective assessment of the Sector, accurate and detailed information is required to be gathered. As such please answer all questions.
- iv. Unless specified otherwise, "year" refers to calendar year. For questions that do not specify a time period please provide the answer as at the time of completing the Questionnaire.
- v. Approximations or ball-park figures in relation to numbers and statistics are acceptable if you are unable to provide an exact answer. Where your answer is approximated, please note this and the reason in the comments section.
- vi. This Questionnaire is to be completed and submitted by no later than June 6th, 2016.

Input variable 4.1.2 Effectiveness of Supervision/Oversight Activities

Regulatory Functions

1. 1. Does the FIU have the appropriate authority and mandate to conduct AML supervision of licensees licensed under the International Corporate Service Providers, Act 2003 as amended ("ICSP Act")? *

Mark only one oval.



Yes

No

2. 2. If yes to question 1, please specify the relevant laws and regulations which provides the legal basis for same

3. Does the FIU have in place any of the following which relates to the performance of its regulatory functions in respect to licensees licensed under the ICSP Act:

3. 3 (a) Written policies

**Mark only one oval.*

Yes

No

N/A

4. 3 (b) Procedures

**Mark only one oval.*

Yes

No

N/A

5. 3 (c) Manuals **Mark*

only one oval.

Yes

No

N/A

6. 4. If yes to question 3, provide details of the relevant policies, procedures and manuals that the FIU has in place

7. 5. Detail the approach being applied by the FIU to carry out its supervisory activities over the past 3 years? e.g. Risk based supervision

Risk Assessment

8. 6. Does the FIU have a system in place to risk assess licensees licensed under the ICSP Act? **Mark only one oval.*

Yes

No

9. 7. If no, to question 6, kindly provide the step being undertaken by the FIU in this regard

10. 8. If yes question 6, specify the methodology being applied by the FIU to risk assess licensees licensed under the ICSP Act?

9. Does the methodology takes into consideration the following in respect to licensees

11. 9 (a) client type (e.g. end user or intermediaries)

**Mark only one oval.*

Yes

No

N/A

12. 9 (b) Volume of clients/entities being administered

**Mark only one oval.*

Yes

No

N/A

13. 9 (c) Volume of transactions

**Mark only one oval.*

Yes

No

N/A

14. 9 (d) Third party Reliance

**Mark only one oval.*

Yes

No

N/A

15. 9 (e) Transaction Patterns

**Mark only one oval.*

Yes

No

N/A

16. 9 (f) Country of Operation

**Mark only one oval.*

Yes

No

N/A

17. 9 (g) Business Activities

**Mark only one oval.*

Yes

No

N/A

18. 9 (h) Associate of Clients

**Mark only one oval.*

Yes

No

N/A

19. 9 (i) Customers Due Diligence Process

**Mark only one oval.*

Yes

No

N/A

20. 9 (j) Politically Exposed Persons

**Mark only one oval.*

Yes

No

N/A

21. 9 (k) Any other additional information for question 8

22. 10. Does the FIU have a system which includes processes for reviewing and, where appropriate, updating information relating to high risk licensees licensed under the ICSP Act? *

Mark only one oval.

Yes

No

11. Based on the FIU's assessment, provide statistics of the last 3 years (on a yearly basis), of licensees deemed to be;

23. 11 (a) Low risk

24. 11 (b) Medium Risk

25. 11 (c) Medium to high risk

26. 11 (d) High risk

Reliance on third parties

27. 12. Does the FIU have a system in place to assess Money Laundering risks of business relationship on licensees licensed under the ICSP Act which rely on 3rd parties to validate due diligence measures? *

Mark only one oval.

Yes

No

28. 13. If yes to question 12, detail the methodology used by the FIU to risk assess licensees which relies on 3rd parties to conduct AML Monitoring?

29. 14. Does the FIU test the efficiency of the systems maintained by licensees licensed under the ICSP Act, in cases where it relies on the CDD conducted by 3rd parties? *
Mark only one oval.

Yes

No

30. 15. If yes the question 14, provide statistics in respect to the test undertaken by the FIU for the past 3 years (on a yearly basis). (e.g. 2013 - No. of test undertaken, 2014 - No. of test undertaken etc.)

Beneficial Ownership Information

16. Does the FIU test the following in respect of BO information;

31. 16 (a) the availability BO information

**Mark only one oval.*

Yes

No

N/A

32. 16 (b) the timeliness to which BO information can be obtained from the third party through the licensee *

Mark only one oval.

Yes

No

N/A

33. 16 (c) the accuracy of BO information provided

**Mark only one oval.*

Yes

No

N/A

17. Provide the number of cases if any where such information;

17 (a) Has been requested

34. 17 (b) Response received

Onsite Supervision

36. 18. Does the FIU undertake on-site compliance inspection within the office of licensees licensed under the ICSP Act? *

Mark only one oval.

Yes

No

37. 19 (a) If yes to question 18, does the FIU have a programme for on-site inspections?

Mark only one oval.

Yes

No

38. 19 (b) Does the FIU apply a risk based approach when planning the frequency of such inspections

Mark only one oval.

Yes

No

19 (c) What is the frequency of on-site inspections for licensees deemed to be:

39. 19 (c) (i) High Risk

40. 19 (c) (ii) Medium Risk

41. 19 (c) (iii) Low Risk

42. 20. Please provide details on the number of on-site inspection undertaken by the FIU within the office of licensees licensed under the ICSP Act over the past 3 years, on a yearly basis. (e.g. 2013 - No. of on-site inspection, 2014 - No. of on-site inspection etc.)

43. 21. Provide details of the main findings/deficiencies identified by the FIU through its on-site inspection undertaken within the office of licensees.

Off-site Monitoring

44. 22. Does the FIU undertake desk based supervision in respect to licensees licensed under the ICSP Act *

Mark only one oval.

Yes

No

45. 23 (a) If yes to question 22, does the FIU have a programme for desk-based supervision?

Mark only one oval.

Yes

No

46. 23 (b) Does the FIU apply a risk based approach when undertaking desk-based supervision?

Mark only one oval.

Yes

No

23 (c) What is the frequency of desk-based supervision for licensees deemed to be:

47. 23 (c) (i) High Risk

48. 23 (c) (ii) Medium Risk

49. 23 (c) (iii) Low Risk

50. 24. Please provide details of the main findings/deficiencies identified by the FIU through its desk based supervision undertaken within the office of licensees licensed under the ICSP Act, over the past 3 years on a yearly basis.

Reporting of Compliance findings

51. 25. What system does the FIU use to collect and record information collected through its offsite and onsite supervision?

52. 26. Has the information collected and analyzed by the FIU through its offsite and onsite supervision, driven or supported any policy decision taken by the FIU? *
Mark only one oval.

Yes

No

53. 27. If Yes to question 26, please provide such policies including the applicable/supporting information/statistics.
Mark only one oval.

Yes

No

Training of (FIU) Supervision Staff/ Awareness of AML Matters

54. 28. Does the FIU have in place an AML training programme for relevant staff?
**Mark only one oval.*

Yes

No

55. 29. If No to Question 28, please provide details of what steps the FIU intends to take in this regards.

30. If Yes to Question 28, please indicate the following:

56. 30 (a) Is the training programme compulsory for all relevant staff?

Mark only one oval.

Yes

No

N/A

57. 30 (b) The required qualification/experience that staff needs to have which will allow them to fulfill their duties diligently.

58. 30 (c) Is the training performed In-house?

Mark only one oval.

Yes

No

N/A

59. 30 (d) Is the training performed through external parties?

Mark only one oval.

Yes

No

N/A

60. 30 (e) How frequently is staff being provided with training and refresher courses? *

61. 30 (f) Provide details on the course content/ outline

62. 30 (g) Provide details of the AML training undertaken by FIU Supervision staff over the past 5 years

63. 31. Does the FIU have a system in place to monitor the effectiveness of the trainings provided? **Mark only one oval.*

Yes

No

64. 32. If Yes to Question 31, provide details of the system.

65. 33. What system does the FIU have to ensure that supervision staff are aware and understands the AML obligation of licensee and the consequences of AML compliance breach the licensee's?

Availability of Resources for Supervision and Oversight Activities

66. 34. Is the FIU self-financed?

**Mark only one oval.*

Yes

No

67. 35. Is the budget allocated to the FIU sufficient to finance/support its supervision and oversight activities? *

Mark only one oval.

Yes

No

68. 36. If No to question 35, please indicate how the FIU effectively discharge its function in the absence of sufficient finance.

69. 37. Does the FIU have the capacity to conduct both onsite and offsite monitoring of licensees licensed under the ICSP Act? *

Mark only one oval.

Yes

No

38. If Yes, please confirm the following:

70. 38 (i) N° of dedicated staff to perform onsite inspection

71. 38 (ii) N° of dedicated staff to perform offsite monitoring

72. 39. Does the FIU exercise moral suasion that has significant impact on the licensee and is sufficient to positively influence behavior patterns? *

Mark only one oval.

Yes

No

73. 39 (i) If yes, provide cases where such has been exercised.

74. 40. Does the FIU conduct survey to gather information from licensees to ascertain the industry's view of the effectiveness of and impartiality of the FIU while it discharges its regulatory functions *

Mark only one oval.

Yes

No

41. If yes, please provide the following information

75. 41 (a) the timeframe covered by the survey

76. 41 (b) the response rate of licensees

77. 41 (c) the frequency of such survey

78. 41 (d) the quality of responses of the licensees

79. 41 (e) the most common views of the industry

Input variable 4.1.3 Availability and Enforcement of Administrative Sanctions

80. 42. Specify the provision under the AML which empowers the FIU to impose administrative sanction on licensees licensed under the ICSP Act. *

81. 43. Has the FIU imposed any administrative sanction over any licensee licensed under the ICSP Act during the past 3 years? *

Mark only one oval.

Yes

No

82. 44. If yes, provide details including the nature of the non-compliance and the number of cases.

4.1.4 Availability and Enforcement of Criminal Sanctions

83. 45. Does the AML Act provide for criminal sanction against natural and legal persons in cases of non-compliance by licensees licensed under the ICSP Act and member of managerial staff with the AML Act and Regulations? *

Mark only one oval.

Yes

No

84. 46. If Yes to Question 45, specify the relevant provision of the Act which give the legal basis for same. *

85. 47. Have there been any cases where criminal investigation was conducted against licensees licensed under the ICSP Act? *
Mark only one oval.

Yes

No

48. If yes to question 47, provide details of the following for the last three years

86. 48 (a) nature of the non-compliance; and

87. 48 (b) the number of investigation conducted

88. 49. Have there been any cases where criminal investigation was conducted against members of managerial staff of licensee? *

50. If yes to question 49, provide details of the following for the last three years: _____

89. 50 (a) nature of the non-compliance; and

90. 50 (b) the number of investigation conducted

91. 51. Has there been any prosecution initiated against licensees licensed under the ICSP Act? *Mark only one oval.

Yes

No

52. If yes to question 51, provide details of the following for the last three years _____

92. 52 (a) nature of the non-compliance; and

93. 52 (b) the number of prosecution initiated

94. 53. Has there been any prosecution initiated against members of managerial staff of licensee? *Mark only one oval.

Yes

No

54. If yes to question 53, provide details of the following for the last three years

95. 54 (a) nature of the non-compliance; and

96. 54 (b) the number of prosecution initiated

97. 55. Have there been any cases where criminal sanction was imposed against licensees licensed under the ICSP Act? *Mark only one oval.

Yes

No

56. If yes to question 55, provide details of the following for the last three years

98. 56 (a) nature of the non-compliance; and

99. 56 (b) the number of cases of criminal sanctions imposed

100. 57. Have there been any cases where criminal sanction was imposed against members of managerial staff of licensee? *
Mark only one oval.

Yes

No

58. If yes to question 57, provide details on the following;

101. 58 (a) nature of the non-compliance; and

102. 58 (b) the number of cases of criminal sanctions imposed

103. 59. Have there been any cases of criminal enforcement action carried out by foreign law enforcement agencies against any licensees licensed under the ICSP Act? *

60. If yes to question 59, provide details on the following ;

104. 60 (a) nature of the non-compliance; and

105. 60 (b) the number of cases of criminal enforcement action carried out by foreign law enforcement agencies

106. 61. Have there been any cases of criminal enforcement action carried out by foreign law enforcement agencies against any members of managerial staff of licensee? *
Mark only one oval.



Yes

No

62. If yes to question 61, provide details on the following ;

107. 62 (a) nature of the non-compliance; and

108. 62 (b) the number of cases of criminal enforcement action carried out by foreign law enforcement agencies

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Annex 13: Self-risk Assessment for Financial Institutions (FIU)



Regulatory and Compliance Section

Anti-Money Laundering (“AML”) and Terrorist Financing (“TF”)

Self-risk assessment for Financial Institutions

Name of Financial Institution:-

Name of CRO:-

Date of Submission:-

Any enquiry of this self-assessment survey may be made to the following person:-

Name:-

Title:-

Telephone no:-

Email address:-

General

As part of their general obligations under the AML Act, financial institutions (“FIs”) are required to take appropriate steps to identify, assess, and understand their Money Laundering and Terrorist Financing risks (“AML/TF”) for the following:-

- Customers
- Country or jurisdictional risks
- Products and services
- Transactions
- Business practices and delivery channels

The self-assessment questionnaire covers the following areas of your internal AML/CFT program:-

- Internal organization and arrangements
- ML/TF risk identification and assessment
- ML/TF risk mitigation and treatment
- AML/CTF program
- Customer identification and verification
- On boarding practice and customer acceptance policy
- Monitoring and reporting
- Employee due diligence
- Training and awareness
- Assurance framework
- Record keeping
- Correspondent banking

Part 1– Nature of financial institution

In order to assist the FIU to determine, whether the nature and extent of your AML/TF risk assessment is proportionate and appropriate to the nature and size of your business over the last financial year, you might please document the required information on the Tables below. Where the information is an approximation only you might indicate this next to the information provided.

Core element 1– Materiality and context

Table 1 – Determining the size of the FI

| Parameter | Description | Response |
|---------------------|--|----------|
| Deposit Base | Total amount of deposit base in Rs terms. | |
| | Total amount of deposit in other types of currencies (Please specify which currencies) | |
| | Total number of customers of the bank | |
| | Total number of accounts held by the bank detailed by types of accounts which can be held (. Eg saving, current, loan, client’s account etc) | |
| | | |

| | | |
|---|--|--|
| Transactions | Value cash transactions (debits and credits) on an annual basis (Rs) | |
| | Total electronic transfers (in value terms) on an annual basis (local) (Rs) | |
| | Total value of international transfers on an annual basis by currency type broken down into inwards and outwards transfers | |
| Loan portfolio | Size of loan portfolio (Rs). (Please include FX portfolio converted in Rs) | |
| | Size of loan portfolio held in non-rupee currency (please specify the currency type) | |
| | Highest amount of loan paid out over the last financial year (Rs) | |
| | Lowest amount of loan paid out over the last financial year (Rs) | |
| Other types of services provided requiring funds to be held on deposit by the bank | Specify types of services Specify currencies Specify value of funds held by type of service listed | |

Part 2:-Risk profile

Core element 2:- Levels of risk and mitigation mechanisms

In order to fully implement Customer Due Diligence obligations, reporting entities must understand the ML/TF risks that exist across their customer base, delivery channels, products and services and the types of ML/TF risks that exist within the financial institution.

Component 1:- Risk assessment by products and services

| Parameter:- Nature of your business | | | |
|---|--|---|--|
| List all Products and services provided by your financial institution below. List all types of accounts which a customer can open with your institution as a separate product. | Risk rating of each product and service being provided (High, Medium, Low or other rating a used which must be explained) | Detailed Reasons for risk rating | Risk treatment and mitigating controls in place |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Q) In addition to the above please indicate if your institution in any way carry out the following activities or operations:-

i) Are you involved in any way in the shipments of bulk currency?

If yes, please indicate which currencies, if this is carried out on a periodic basis, the risk assessment methodology applied for identifying and assessing related risk of this type of activity and submit related policy and procedural manuals.

ii) Do you provide correspondent banking facilities?

If yes, please indicate which currencies, if this is carried out on a periodic basis, the risk assessment methodology applied for identifying and assessing related risk of this type of activity and submit related policy and procedural manuals.

iii) Do you issue foreign currency denominated drafts? In what currencies? Is this carried out through a foreign financial institution? Please detail the risk assessment methodology applied for identifying and assessing related risk of this type of activity and provide a copy of relevant policy and procedural manual.

vi) Do you have specific policies and procedures for managing and monitoring of “payable through accounts” and Clients’ accounts? Please submit related policy and procedural manual.

Component 2:- Risk assessment by types of customers

Q) How do you categorise your customers?

| Parameter:- Assessment of risk by Customer type | | | | |
|---|---|--|----------------------------------|--|
| List the different types of customers having a business relationship with your institution. | In nominal terms, how many of your customers would fall within each category? | Risk rating of each type of customer listed (High, Medium, Low or other rating a used which must be explained) | Detailed Reasons for risk rating | Risk treatment or mitigating controls in place |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| | | | | |
|--|--|--|--|--|
| | | | | |
| | | | | |

Other sub-categories of customers:-

Do you have business relationships or provide one-off transactions and service to the following types of customers? If yes, please write down next to your answer the number of customers which fall within each category or the number of times you have provided one-off transactions or services to these persons.

| <u>Types of customer</u> | <u>Type of relationship with the institution:- Customer and/or one-off transaction or service?</u> | <u>Number of customers and/or number of times carried out one-off transaction or service</u> |
|---|--|--|
| (i) Politically Exposed Person | | |
| (ii) Non-resident customers. (Please provide details as to whether these are individuals, legal entities and legal arrangements) | | |
| (iii) Customers where business relationship was | | |

| | | |
|---|--|--|
| <p>established on a non-face to face basis</p> <p>(Please provide details as to whether these are individuals, legal entities and legal arrangements)</p> | | |
| <p>(iii) Non-profit organisations</p> | | |
| <p>(iv) Customers to which you provide correspondent banking relationship</p> | | |
| <p>(v) Customers to which you provide trade financing (eg. Letters of credit etc)</p> | | |

Component 4:-Other ML/TF risks

| Parameter:- What underlying factors do you consider when assessing risks in relation to the following: | | | |
|---|---|---|--|
| <u>Other types of risks</u> | <u>Where within your financial institution would this apply?</u> | <u>What underlying factors do you consider when assessing these risks?</u> | <u>Mitigating controls and treatment of risks</u> |
| (i) Geographic or Country risk | | | |
| (ii) Use of new technologies | | | |
| (iii) Sanctions risk | | | |

Please describe the methodology used for identifying and assessing risks in your financial institution.

Part 3:- Compliance arrangements and defense lines

Core element 6– Application of Customer due diligence measures and risk profiling

Q: -When do you apply customer due diligence measures?

Q: - Please explain the customer due diligence process in relation to High risk, Medium risk and Low risk customers.

Q:- Please explain your customer due diligence process of identifying beneficial owners.

Q:- Please explain your customer due diligence process for identifying Politically Exposed Persons.

Q:- Do you currently have customers with which you have established business relationship where you have no Customer Due Diligence information on file?

Q:- Do you currently have customers with which you have established business relationship where you the Customer Due Diligence information on file is not updated?

| Parameter:- Customer due diligence measures at the time of on-boarding | | | |
|--|--|---|------------------|
| <u>Risk category of customers</u> | <u>Cycle of review and remediation</u> | <u>Mitigating controls and treatment of risks</u> | <u>Rationale</u> |
| High risk | | | |
| Medium risk | | | |
| Low risk | | | |

Please provide supporting documents for the procedures and processes outlines above

Subsequent to the establishment of the business relationship, please explain the process of managing the business relationship with the customer.

Q) How are the following members of staff involved in the process?

(i) Front-line staff?

(ii) Relationship manager (if any):-

(iii) Compliance staff?

(iv) Others? Please specify.

Core element 7 – On-Going Monitoring

Reporting entities are required to carry out on-going due diligence and monitoring of customers, business relationship and transactions on a risk sensitive basis.

Q:- How do you carry out on-going monitoring of your customers?

Q:- Which staff members are involved in the process? Please explain the role that the different staff members play in this process.

Q:- Please explain the process in relation to High risk, Medium risk and Low risk customers.

Q:- How often do you scrutinise transactions, use of services and products by a customer to ensure it is consistent with your knowledge of the customer, its business and risk profile?

Q:- As part of this scrutiny how often and in what circumstances do you request for source of funds?

Q:- Have you taken reasonable steps to ensure that records of existing customers remain up-to-date and are relevant?

Please provide a description of reasonable steps taken

Q:- What system do you have in place for monitoring of transactions? Is this an electronic or manual system of transactions monitoring?

Q:- On average how many exception reports are generated weekly by your monitoring system?

Q_ What process do you have of verifying and investigating these exception reports? Who is involved in the process?

Q:- Where an electronic process is used for transactions monitoring please list all variables inputted into the system to generate red flags.

Q:- How long does it take to make a determination in respect of an exception report?

Q:- How many exception reports have resulted in internal STRs? How many have led to external STRs being submitted?

Core element 8:- Reporting of Suspicious Transactions

Reporting entities are required to apply procedures to identify suspicious transactions or activity for the reporting of criminal conduct and funds or property known or suspected to be proceeds of crime or related to terrorist activity.

Q:- What systems and procedures do you have in place to enable detection of patterns of unusual and suspicious activity?

Q:- For which types of customers do you apply these procedures and systems?

Q:- Do you use third party systems or rely on related entities for the screening of customers and transactions?

Q:- Who is involved in your internal framework for detecting suspicious transactions (staff members)?

Q:- Who review suspicious transactions and activities? And who has the final say in submitting suspicious transaction reports to the FIU?

Q:- Does senior management exercise an oversight function in respect of the suspicious transactions detection and reporting? Please provide detail of this oversight function.

Q:- Have you communicated the patterns of unusual transactions or activities to your staff? If yes, when was this last communicated?

Q:- How do you ensure that customers and transactions are checked against the UNSCR list of entities designated for the purpose of UNSCR 1267 that is circulated by the FIU? Please explain your monitoring and verification process in relation to this.

Q:- How many internal STRs have you received over the period beginning 1st January 2014 – until 1st December 2015?

Q:- From which unit or department of your financial institution did the internal STRs originate? Please detail as percentages.

Q:- How many STRs were submitted to the FIU from period beginning 1st January 2014 – 1st December 2015?

Core element 9– Management of information

Q:- For how long do you retain customer information?

Q:- Do you transcribe customer information into your IT system? If, yes, what application do you use for maintaining information electronically?

Q:- in what form is the information maintained?

Q:- Where is the customer information kept and who has access to the information?

Q:- Are transactions records and documents obtained in support of transactions kept with the customer files?

Q:- How do you ensure customer records remain accurate, up-to-date and relevant?

Part 4 - AML/CTF Policies and governance arrangements

Reporting entities are required to establish appropriate policies and procedures to combat money laundering and terrorist financing and communicate the policies and procedures to its staff

| Requirement/ Question | Yes/No (where relevant) | Provide detailed justification or description (where relevant) | Documents required submission |
|--|-------------------------|--|---|
| Have you established AML/CTF policies with regards to the particular nature and size of your business? | | | Please submit a copy of your AML/CTF policy |
| How do you ensure that your policies are managed effectively? | | | |
| Has your policy been approved by your board of directors? Please specify date of approval by the board | | | Please provide extract of the board meeting documenting the approval. |
| Does your policy also cover your risk appetite? If no, has your board set the risk appetite of your financial institution? | | | Please provide extract of the board meeting documenting the approval |

| | | | |
|---|--|--|--|
| | | | |
| <p>Do your policies and procedures cover the following areas? Please specify the provisions and procedures.</p> <p>(i) Customer Acceptance Policy</p> | | | |
| <p>(ii) Customer Due Diligence</p> | | | |
| <p>(iii) Indicators of suspicious activities and recognition of suspicious transactions</p> | | | |
| <p>(iv) Reporting of suspicious transactions</p> | | | |
| <p>(v) Staff awareness and training</p> | | | |
| <p>(vi) Record keeping and retention</p> | | | |

| | | | |
|--|--|--|--|
| <p>(vi) Risk assessment</p> | | | |
| <p>(vii) Others (please elaborate)</p> | | | |
| <p>Are your AML/CTF policies and procedures updated regularly to reflect the latest legal and regulatory AML/CTF requirements?</p> <p>Please specify the person who carried out the review and last date of review and update.</p> | | | |
| <p>Are your AML/CTF policies and procedures endorsed by your senior management and your board of director?</p> <p>Please specify date of endorsements by both</p> | | | |

| | | | |
|--|--|--|--|
| <p>Are your AML/CTF policies and procedures adequately communicated to your staff?</p> <p>Please specify dates and the form in which this was last communicated.</p> | | | |
| <p>(i) Do you provide job specific AML/TF training to relevant staff?</p> <p>Please specify the last date that the training was provided and the positions of the staff to which these trainings were delivered.</p> | | | |
| <p>(ii) Do you require staff to confirm receipt of AML/CFT policies and training?</p> | | | |
| <p>(iii) Do you ensure staff understands AML/TF policies and procedures through testing and other means?</p> | | | |

| | | | |
|--|--|--|--|
| <p>Please specify the last date that the testing was carried out and provide details of the other means</p> | | | |
| <p>Do you conduct regular independent review and testing to ensure the effectiveness of the policies and procedures?</p> <p>Please specify the last date that this was carried out.</p> <p>(i) How often is this carried out?</p> <p>(ii) By whom?</p> | | | |

Part 5–AML/CFT Compliance function and compliance culture

Reporting entities are required to establish appropriate policies and procedures to combat money laundering and terrorist financing and communicate the policies and procedures to its staff

Q:- What is the size of your AML/CFT compliance function?

Q:- Please provide the position, duties and reporting line of each member of staff allocated to AML/CFT compliance function.

Q:- How do you promote a compliance culture within your financial institution?

Part 6:- Staff screening, Education and Training

Reporting entities are required to have on-going training on AML/TF to ensure that members of staff are kept informed of new developments and AML/TF requirements.

| Requirement/ Question | Yes/No | Provide detailed justification |
|--|--------|--------------------------------|
| Do all members of staff receive AML/TF training? (eg. as part of induction training?) a) If yes, please provide a list of names of those members of staff and the training they have received. | | |
| Do members of staff particularly frontline staff and those dealing with high risk customers and products and services receive refresher training on AML/TF regularly? a) How often is the training carried out? | | |
| What screening procedures do you have in place to ensure high standards when hiring employees? | | |
| Is the Compliance and Reporting Officer involved in the interview and screening process? | | |
| In monetary terms please specify how much is spent on AML/CFT compliance training on an annual basis. | | |

Part 7 - AML/CTF Assurance framework

Reporting entities are required to establish an audit function to test its anti-money laundering and financing of terrorism procedures and systems

Q:- Please explain your framework for testing your AML/CFT procedures and systems.

Q:- Which members of staff are involved in the process?

Q:- How do you determine when to perform testing of your systems and procedures?

Q:- Please provide the last date this was carried out and a copy of the report showing the findings.

Q:- Are the findings communicated to your senior management and board of directors?

Q:- Do you also require independent testing of your AML/CFT programme?

Q:- If yes, what was the date of the last testing and who performed the independent test?

Q:- What was the main findings of the independent testing?

Q:- Were the findings communicated to senior management and the board of directors?

END

Name of person of filled in the questionnaire:-

Designation:-

Signature:-

Date:-

Thank you for completing this self-assessment questionnaire. The information submitted will only be used for supervisory purposes. Please note that you are required to provide accurate and true information.

Annex 14: FIU Bank Inspections for 2016

| Sr.No. | Name of Banks | Type of Inspection | Date of Inspection | Report issue date | Rationale if report not issued |
|--------|-----------------------------|--|--------------------------------------|--|---|
| 1 | Barclays Bank of Seychelles | Joint inspection with Central Bank of Seychelles | Inspection started on 12/04/2016 | Report dated 15/02/2017 not issued | Report not conclusive- pending further action by FIU |
| 2 | Bank of Baroda | Joint inspection with Central Bank of Seychelles | Inspection started on 24/05/2016 | Report dated 30/03/2017 not issued | Report not conclusive however meeting held with BOB to apprise on the 2016 findings. A full review will be conducted in August 2017 |
| 3 | Mauritius Commercial Bank | FIU planned AML /CFT Inspection | Inspection started in September 2016 | Report not issued | Report not conclusive however met with them in May 2017 to apprise on the 2016 findings, action plan issued. |
| 4. | Nouvobanq | FIU planned AML/CFT inspection | Inspection started in April 2016 | Report issued in December 2016 | |

Annex 15: DNFBP Assessment of overall Vulnerability per sector

1.7.5 MONEY LAUNDERING RISK AT CASINO SECTOR

A delegation from the FIU met with senior officers from the three biggest Casinos (Gran Kaz, Berjaya casino, Kempinski) and learnt of the following risks inherent to this sector:

- Apart from a senior staff who participated in the training imparted by the FIU, generally staff from the Casinos are not aware of the AML Act and its statutory requirements and this is a major risk.
- None have yet appointed a Compliance and Reporting Officer (CRO) and as such do not have an AML Manual in place;
- Identification of PEPs and other high risk customers is a problem;
- Do not have access to any Terrorist or sanction list;
- Winnings are paid out in cash and refunds to Credit Cards are to the exact amount of chips purchased. One Casino uses a card system for their patrons and winnings can be credited to the card should the winner not wish to cash in his winnings; Winning are also paid out using credit/debit card especially when the client has used the same card to buy chips or exchange for cash. And would cancel the previous transaction and transaction only for the difference.
- None have submitted any Suspicious Transaction Reports (STR);
- Retain transaction records but do not indicate for how long they are retained;
- One Casino has commenced accepting Junkets who when they are here, hire the Casino from the Hotel to play. The Casino does not know what goes on and the amount of money involved when the junkets are playing. This poses the risk of money being laundered by the members of the junket. We understand that the junket settle the account between themselves, however, the hotel receives payment to host the gambling activity and includes the gambling area, accommodation, food and excursions. The hotel maintained a copy of the passport of each individual involved in the junket just like for other hotel guest.
- The Managers claim that they know their clientele well and are able to detect any suspicious activities.

1.7.6 MONEY LAUNDERING RISK AT ACCOUNTANTS & AUDITORS

The following issues emerged following submission of responses to a questionnaire by eight firms:

- The Association produced an Accountants Bill five years ago and it is still being debated on by the Ministry of Finance. The Bill will regulate entry requirements, punitive sanctions, amongst others.
- There is currently no legislation governing Accountants so anybody can practice.
- Auditors pay a yearly license to practice;
- There are foreign firms conducting Accounting business in Seychelles without a license;

- Under the AML Act, if Accountants during the course of their duties detect suspicious transactions, they are required to report them to the FIU. They all confirmed of not having detected any suspicious transactions and as such, no STRs has been received from this sector.
- Apart from two firms, most do not operate bank accounts on behalf of their clients. The two who do perform this service claim that it is to meet the monthly utility expenses of their clients.
- The Accounting firms do not handle cash as most transactions are either by Cheques or bank transfers.
- Senior officers in the Accounting firms have participated in AML training conducted by the FIU.
- None have appointed a Compliance and Reporting Officer (CRO) and as such do not have an AML Manual in place;
- Identification of PEPs and other high risk customers is a problem;
- Do not have access to any Terrorist or sanction list;
- Regulatory should conduct on-site inspections of all Accountants and Auditors.

1.7.7 MONEY LAUNDERING RISK AT MOTOR VEHICLE DEALERS

A delegation from the FIU met with senior officers from the three biggest motor vehicle dealers and learnt of the following risks inherent to this sector:

- Apart from a senior staff who participated in the training imparted by the FIU, generally staff from the motor vehicle dealers are not aware of the AML Act and its statutory requirements and this is a major risk.
- Currently, two companies have been inspected by the FIU;
- None have appointed a Compliance and Reporting Officer (CRO) and as such do not have an AML Manual in place;
- Identification of PEPs and other high risk customers is a problem;
- Do not have access to any Terrorist or sanction list;
- All three companies do not retain copies of identification documents;
- All three companies claim that 10 percent of sales is paid in cash, 30 to 50 percent by cheque and the remaining by bank transfer.
- There are reports of individuals importing cars for sale to members of the public without a proper license of a Vehicle Dealer.

1.7.8 MONEY LAUNDERING RISK AT PRECIOUS METALS AND STONES

A delegation from the FIU met with senior officers from the four Precious Metals and Stones Dealers, two of which deal in high-end products and learnt of the following risks inherent to this sector:

- The senior staff of the two high-end companies have received training knowledge of AML. The staff of one company has received some training locally conducted by someone from their Head Office and they are expected to proceed overseas for further training. The senior staff of the other two lower end products have some knowledge of what money laundering entails but their staff have no knowledge of ML;
- One high-end company has some high risk clients (Russians) but all foreigners are asked to produce identification documents, local address and e-mail address. Failure to provide the passport will result in the transaction not being processed. Their local clients are reluctant to produce identification documents.
- The Middle and Lower-end jewelers sell mostly to locals with prices ranging from R 2,000 to R 40,000;
- None of the companies in this sector have been inspected by the FIU;
- None have appointed a Compliance and Reporting Officer (CRO) and as such do not have an AML Manual in place;
- Identification of PEPs and other high risk customers is a problem;
- Do not have access to any Terrorist or sanction list;
- One company buys used gold and later sells it overseas. During the purchasing process the company does the following: Retains a copy of the identification document of the seller, contact details, signs a declaration to the effect that the gold item being sold belongs to the seller and is not related to any crime of theft, a picture of the item being sold is taken. It was found that no license is required from SLA to purchase used gold items and no Export Permit is required from the Ministry of Finance when taking out gold items for sale overseas. This is considered as high risk.

1.7.9 MONEY LAUNDERING RISK AT REAL ESTATE DEALERS

A delegation from the FIU met with Real Estate Dealers and learnt of the following risks inherent to this sector:

- Of the five Real Estate Agents interviewed, senior officials from three agencies have participated in the AML training organized by the FIU after which one officer passed on what she had learnt to her colleagues. Two agencies have no training in AML.
- One agency caters for high-end clients and conducts all CDD on her clients including a PEP declaration. The others cater to both locals and foreigners and also conduct CDD on all clients. They also rely on Lawyers to do their CDD which is high risk;
- For foreigners, government sanction is required and all the agencies claim that this is sought beforehand. There have been instances whereby this requirement has been by-passed by locals who have acted as nominees for foreigners.

- The Real Estate Board set up by the Estate Agents Act considers applications for registration as an Estate Agent. Must hold a Certificate of Practice in Estate Agency or a minimum of 5 years' experience in Estate Agency Work. So far 9 agencies have been registered, two of whom are not active.
- The Real Estate Board has never met with the Real Estate Agents nor conducted any supervision to ensure that they are not engaging in illegal activities. Board merely relies on information received from aggrieved clients or otherwise to take disciplinary action against a registered agent. This has led to unregistered individuals and companies trying to sell real estate;
- To-date no cases of refusal on account of failure to meet AML controls has been encountered by the Board;
- Some Real Estate Agents merely act as middlemen between the buyer and seller and does not know anything about the transactions.
- Real Estate Dealers claim that they do not accept cash and bank transfers are preferred.

1.7.10 MONEY LAUNDERING RISK AT LAWYERS

The following risks are inherent to this sector:

- Very few attorneys specialize their practices, and so it is difficult to identify which attorneys are providing the more services which have a higher risk of ML/TF.
- Approximately 50% of all attorneys have received ML training, only 2 of those persons received training specific to the Seychelles environment and legal system. Their knowledge of AMLA and POCA is low. If they are aware of their reporting duties, there is a reluctance to report based on attorney-client privilege.
- Legal Practitioners are generally good at keeping records of transactions.
- Identification of PEPs and other high risk customers is a problem; Only the two bigger firms are able to afford the prescriptions which will allow them to check the names of their clients against an international database;
- There is low knowledge of Terrorist or sanction list;
- Legal Practitioners are usually willing to receive cash from clients;
- Most Legal Practitioners deal mainly with local clients, and their KYC will be very good in this regard, although informal. They are unlikely to keep copies of ID cards or other KYC documents on file. With regard to international clients, they retain copies of ID documents or passports and are more thorough with their KYC.

1.7.11 MONEY LAUNDERING RISK AT BOAT & YACHT DEALERS

A delegation from the FIU met with two Boat Dealers, the National Port Authority and Seychelles Maritime Security Services (SMSA) and learnt of the following problems and risks inherent to this sector:

- The MD of one company participated in the AML training conducted by the FIU and has some knowledge of what AML entails. His staff however do not know anything about AML. The other Boat Dealer has no idea about AML;
- One company is scaling down its yacht brokerage and pleasure boat activities as it is no longer economically viable because of maintenance costs. It now merely charters yachts to wealthy clients.
- The other company imports and sells boats from the Italy and the USA. Most of their clients are foreigners based on Eden Island. As all payments are made by bank transfers, the company relies on the banks to conduct the CDD.
- No due diligence checks are carried out on the buyers but copies of their identity documents and information on companies are retained on file;
- Hire craft and fishing vessels are registered but pleasure craft are not obliged to register their boats with any regulatory or commercial body. This non-registration exposes the jurisdictions shores to potential illegal or dangerous activities.
- Vessels sailing and entering Seychelles waters are well recorded and maintained. Vessels being imported into Seychelles via carrier vessels or aircrafts are not well recorded. Pleasure boats can be brought into the jurisdiction in containers or off-loaded on board the carrier ship and it sails up to Eden Island. This activity poses a money laundering risk.
- The Port Authority has also expressed its concern about illegal charters of private pleasure craft on Eden Island.
- They have also expressed concerns about locally based mini cruises that might not be paying the correct dues to SRC.

| | Sectors | | | | | | |
|--|--|---|----------------|---------------------------------|---------------------------|----------------------------------|----------------------------|
| | <i>Money remittance activities of BDCs</i> | <i>Buying and Selling of Foreign Currency by BDCs</i> | <i>E-money</i> | <i>Mortgage Providers (MFC)</i> | <i>Cooperatives (SCU)</i> | <i>Other lenders (DBS, SBFA)</i> | <i>Insurance Companies</i> |
| 4.1.1. Comprehensiveness of AML Legal Framework | | | | | | | |
| a) Do you find that the Seychelles' AML laws and regulations in force within this industry? | | | | | | | |
| b) Do you find that the Seychelles' AML laws and regulations are in conformity to the international standards in relation to the following: | | | | | | | |
| <i>CDD (including the verification of beneficial ownership of customers that are natural persons/legal entities and or legal arrangements);</i> | | | | | | | |
| <i>Enhanced due diligence for PEPs and high risk countries;</i> | | | | | | | |
| <i>Enhanced CDD where new technologies are involved;</i> | | | | | | | |
| <i>Enhanced due diligence for business relationships and transactions with natural/legal person, or financial institutions from high risk countries;</i> | | | | | | | |
| <i>Reliance on CDD by third parties (including introduced business);</i> | | | | | | | |
| <i>Record-keeping;</i> | | | | | | | |
| <i>STR;</i> | | | | | | | |
| <i>Tipping-off and confidentiality;</i> | | | | | | | |
| <i>Internal Controls, foreign branches and subsidiaries;</i> | | | | | | | |
| <i>Regulation and supervision of financial institutions; and</i> | | | | | | | |
| <i>Supervisory powers.</i> | | | | | | | |
| | | | | | | | |
| 4.1.2. Effectiveness of Supervision Procedures and Practices | | | | | | | |
| a) Do you find the AML supervisory body (the FIU) clearly identifiable in the AML laws and regulations? | | | | | | | |
| b) Do you find that the FIU has the appropriate authority and mandate to conduct AML compliance supervision? | | | | | | | |
| c) Do you find that the FIU carries out its supervisory activities within a comprehensive supervisory framework (which includes clear supervisory policies, procedures and manuals)? | | | | | | | |

| | | | | | | | |
|---|--|--|--|--|--|--|--|
| d) Do you find that the FIU possesses a good understanding and appreciation of the ML risks within the sector? | | | | | | | |
| e) Do you find that the FIU has a sufficient number of trained staff? | | | | | | | |
| <i>How many staff?</i> | | | | | | | |
| <i>Level of training?</i> | | | | | | | |
| <i>What are the staff levels that goes on training?</i> | | | | | | | |
| <i>What is the frequency of training?</i> | | | | | | | |
| <i>What are the types of training?</i> | | | | | | | |
| f) Do you find that the FIU equips its staff with the necessary skills and up-to-date knowledge of institutions and products supervised to carry out AML supervision? | | | | | | | |
| g) Do you find that the FIU has the necessary resources to ensure AML compliance (such as technical capacity, budget and tools)? | | | | | | | |
| h) Do you find that the FIU carries out a comprehensive, RBS program that consists of on-site/off-site inspections on both regularly scheduled cycles and periodic spot-checks that are risk-based and as necessary? | | | | | | | |
| <i>How many inspections have been conducted in the last 2 years?</i> | | | | | | | |
| <i>What is the scope of inspections conducted?</i> | | | | | | | |
| <i>What is the actual inspection cycle for this sector?</i> | | | | | | | |
| i) Do you find that the FIU reports and records examination results in a systematic way and is able to effectively use these records for policy purposes? | | | | | | | |
| <i>Has reports been produced for all inspections?</i> | | | | | | | |
| j) Do you find that the FIU exercises moral suasion that has a significant impact on the management of these companies and is sufficient to positively influence behavior patterns? | | | | | | | |
| k) Do you find that the FIU can demonstrate that its supervisory powers are exercised effectively and impartially? | | | | | | | |
| | | | | | | | |
| 4.1.3. Availability and Enforcement of Administrative Sanctions | | | | | | | |
| a) Do you find that the Seychelles' AML laws and regulations have appropriate administrative sanctions in place for noncompliance with AML obligations? | | | | | | | |
| b) Do you find that these administrative sanctions (if any) are sufficient to positively influence management and staff behavior (such as monetary penalties, administrative actions, removal of critical staff, and suspension/withdrawal of licenses) in these companies? | | | | | | | |
| <i>In cases where sanctions were applied, did the institution undertake corrective actions?</i> | | | | | | | |

| | | | | | | | | |
|---|--|--|--|--|--|--|--|--|
| c) Do you contemplate that there is a record of administrative enforcement actions taken in the past by law enforcement authorities regarding noncompliance with AML requirements in the sector? | | | | | | | | |
| <i>How many administrative sanctions has been applied in the past 2 years?</i> | | | | | | | | |
| <i>What are administrative sanctions that has been applied?</i> | | | | | | | | |
| <i>Steps taken to apply the administrative sanctions?</i> | | | | | | | | |
| d) Do you find that most persons working in the sector believe that administrative action would be initiated in case of noncompliance with AML requirements? | | | | | | | | |
| | | | | | | | | |
| 4.1.4. Availability and Enforcement of Criminal Sanctions | | | | | | | | |
| a) Are there appropriate criminal sanctions in place for noncompliance with AML obligations? | | | | | | | | |
| b) Do the people in the industry regard the criminal sanctions regime as sufficiently dissuasive to positively influence individual behavior patterns? | | | | | | | | |
| c) Do you find that the criminal sanctions are also applicable for offences related to ML? | | | | | | | | |
| d) Do you find that most persons working in the sector believe that criminal enforcement action would be initiated in case of noncompliance with AML requirements? | | | | | | | | |
| e) Is there a record of convictions and criminal enforcement actions that have been taken over the past years by local law enforcement authorities regarding noncompliance with AML requirements in the sector? | | | | | | | | |
| <i>What is the number of investigations?</i> | | | | | | | | |
| <i>What is the number of prosecutions?</i> | | | | | | | | |
| <i>What is the number of convictions?</i> | | | | | | | | |
| f) Is there a record of convictions and criminal enforcement actions that have been taken over the past years by local foreign law enforcement authorities regarding noncompliance with AML requirements in the sector? | | | | | | | | |
| <i>What is the number of investigations?</i> | | | | | | | | |
| <i>What is the number of prosecutions?</i> | | | | | | | | |
| <i>What is the number of convictions?</i> | | | | | | | | |
| g) To your knowledge, is there any criminal enforcement against companies and their staff in relation to other financial crimes such as fraud instituted by local law enforcement authorities? | | | | | | | | |
| h) To your knowledge, is there any criminal enforcement against companies and their staff in relation to other financial crimes such as fraud instituted by foreign law enforcement authorities? | | | | | | | | |
| | | | | | | | | |
| 4.1.6. Integrity of Staff | | | | | | | | |
| a) Do you find that companies generally regard their staff members as secure from corruption by criminals? | | | | | | | | |

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| <i>Please provide statistics, on number of criminal cases in the last 2 years</i> | | | | | | | |
| b) Do you find that the incidence of integrity failure (e.g. negligent or wilful blindness to suspicious transactions) involving this sector's staff is low? | | | | | | | |
| <i>Please provide statistics for the last 2 years on the number of integrity breaches and information as to the resulting disciplinary actions taken</i> | | | | | | | |
| c) Do you find that there is under-reporting of incidences of integrity failure? | | | | | | | |
| d) Are there appropriate mechanisms in place to protect companies' staff against any negative consequences resulting from reporting suspicious transactions, or other actions that comply with AML obligations? | | | | | | | |
| e) Are institutions within this sector involved in tax evasion? | | | | | | | |
| <i>How many incidents in the past 2 years?</i> | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| 4.1.7. AML Knowledge of Staff | | | | | | | |
| a) Are there appropriate AML training programs and materials available to companies' staff? | | | | | | | |
| <i>What kind of training are available?</i> | | | | | | | |
| b) Are the AML training programs regularly held? | | | | | | | |
| <i>What is the frequency of training provided?</i> | | | | | | | |
| <i>How many hours of training have been provided in the last 2 years?</i> | | | | | | | |
| <i>What is the level and type of staff that are trained?</i> | | | | | | | |
| c) Are the level of AML training programs appropriate? | | | | | | | |
| d) Are the quality of AML training programs appropriate? | | | | | | | |
| e) Do you find that the training programs are designed to ensure that all appropriate staff members are trained? | | | | | | | |
| f) Are all staff members required to undergo ongoing training to ensure that their knowledge of AML laws, policies and procedures is appropriate and up-to-date? | | | | | | | |
| g) Do you find that staff members have a good knowledge on domestic and transnational money laundering schemes and typologies, including those involving the actual and potential misuse of the companies and specialized knowledge & skills of its staff and its products and services? | | | | | | | |
| h) Are staff members regularly updated on domestic and transnational money laundering schemes and typologies, including those involving the actual and potential misuse of the insurance companies and specialized knowledge & skills of its staff and its products and services? | | | | | | | |
| i) Are staff members aware of AML compliance, reporting procedures and obligations? | | | | | | | |
| j) Do staff members understand the legal consequences of AML compliance breaches? | | | | | | | |
| | | | | | | | |

4.1.8. Effectiveness of Compliance Function (Organization)

a) Does these company have any internal compliance program(s) that are commensurate to the level of risk, taking into account factors such as the following:

Jurisdictions of end-users

Volume and nature of products provided

Frequency of international transactions

Client base profile?

Please provide statistics on new clients

Please provide statistics on number of declined business based on recommendations from compliance staff

Please provide statistics on terminated business relationships based on recommendations from compliance staff

b) Has the companies appointed a sufficiently resourced and independent AML compliance officer who functions at a senior management level?

c) Does the companies possess a compliance policy?

d) Has the company taken disciplinary actions (as and when required) against staff for breaches of the compliance policy?

Please provide statistics on the number of disciplinary actions for the past 2 years

e) Have there been any internal and/or external AML audits performed?

If yes, what are the findings on the effectiveness of compliance functions

4.1.9. Effectiveness of Suspicious Activity Monitoring and Reporting

a) Does the company have information systems that enable and facilitate the monitoring of transactions of clients against their profiles?

If yes, please provide the number of STRs and quality filed in the last 2 years,

b) Are the company's transactional records available in a format that facilitates AML screening and monitoring?

c) Do the systems in place support companies in performing effective PEP or sanction screenings?

d) Do the systems in place assist the companies and their staff to effectively identify and record all complex and/or unusual large transactions?

Provide statistics on the number of complex and unusual large transactions reported.

e) Do the systems in place assist companies and their staff in identifying and reporting suspicious transactions?

| | | | | | | | |
|---|--|--|--|--|--|--|--|
| f) Do employees have a good understanding of the scope of their reporting obligations on suspicious transactions and activities? | | | | | | | |
| g) Are employees aware of the type of suspicious transactions and activities, which are covered or not covered under respective laws? | | | | | | | |

4.1.10. Level of Market Pressure to Meet AML Standards (Optional)

| | | | | | | | |
|---|--|--|--|--|--|--|--|
| a) Does companies have cross-border relationships that they deem important and that require them to comply with international AML standards should they wish to maintain these relationships? | | | | | | | |
| b) Are companies' management sensitive to international and national AML-related reputational risks? | | | | | | | |
| | | | | | | | |
| | | | | | | | |

[1] [PEP – Politically Exposed Person](#)

[1] [AML – Anti-Money Laundering](#)

[1] [CDD – Customer Due Diligence](#)

[1] [PEPs – Politically Exposed Persons](#)

[1] [STR – Suspicious Transaction Reporting](#)

[1] [FIU – Financial Intelligence Unit \(AML Supervisory Body\)](#)

[1] [ML – Money Laundering](#)

[1] [RBS – Risk-Based Supervisory](#)

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Annex 17, 18& 19: Detailed analysis of Other Financials

Detailed analysis of criteria for Money remittance

1. Comprehensiveness of AML legal framework

Deficiency: There is no requirement for internal controls in the AML Act or Regulations with the exception of Sec 15 of AML Act which however does not cover policies for sharing of information within the group. The AML act or regulations does not require foreign branches and subsidiaries to apply AML/CFT measures consistent with the home country.

Recommendation: Ensure requirements on internal controls are at par with international standards and the AML act or regulations to require foreign branches and subsidiaries to apply AML/CFT measures consistent with the home country in accordance with the FATF recommendations.

2. Effectiveness of AML Supervision/Oversight Activities

Deficiency 1: In regards to whether the FIU possesses a good understanding and appreciation for the ML risks within this sector it has been noted that the FIU has the power to conduct examination of these companies, conducts offsite monitoring, receives STRs and analyses such. Moreover surveys are sent to the BDCs so that the ML risks areas can be identified. However, based on the fact that only 1 examination has been conducted on one of these entities in the past 2 years, it can be argued that the FIU may not have a current and up to date knowledge of the ML/CFT risks associated with these institutions.

Recommendation: The FIU to conduct more frequent examinations of these institutions to understand the ML/CFT risks associated with each entity.

Deficiency 2: With respect to the sufficiency of the number of trained staff it has been observed that it can be deduced that based on the frequency of examinations conducted and the number of reporting entities supervised by the FIU, the human resources is not enough.

Recommendation: The FIU to consider increasing the human resource capacity and/or document and implement a risk based approach to its supervisory function which will reduce the amount of staff/resources needed to conduct its supervisory function effectively.

Deficiency 3: Sec 25 of the AML ensures the legal basis for proper funding of the FIU. However, it can be argued that in practice, the FIU does not have a sufficient budget/is not making effective use of its allocated budget to operate effectively. This is based on the fact that its human resources is insufficient/supervisory practices needs to be strengthened in view of the time lag between onsite examinations of institutions providing money remittance activities.

Recommendation: Reassess the required/allocation of budget for the FIU to ensure proper operation and ensure it achieves its mandate effectively.

Deficiency 4: Part 3 - sec 16 gives FIU power to conduct onsite examination, offsite monitoring. Although the FIU has adopted a risk based approach, in practice this is not applied as the FIU is supposed to conduct examinations of all institutions at least once every 2 years, but has not been done.

Recommendation: Develop and apply a comprehensive risk-based approach to supervisory program for onsite and offsite monitoring. This should consist of both spot-checks and regular cycles of examination of such reporting entities within specified timeframes and schedule should have regards to the level of ML/CFT risks associated with the institutions.

Deficiency 5: Based on questionnaire responses from the FIU, they do record results of onsite examinations. Nonetheless, it should be noted that in view that examinations are not done frequently it therefore implies that these findings are not used for policy purposes.

Recommendation: FIU to record examination results in a systematic way and to use these reports for policy purposes. To allow this to happen the FIU has to ensure that examinations are conducted on a frequent basis. Examinations reports to be sent to Reporting entities in a suitable timeframe after the completion of examinations.

Deficiency 6: According to the FIU, it exercises moral suasion that has significant impact on the management of the business. This is supported by the law which contains sanctions and penalties for non-compliance to directions of the FIU and breach of the AML act and regulations (sec 16 D of AML ACT and Part 6 identifies all offences under the AML act for non-compliance). However, there are no administrative sanctions in place and penalties and sanctions can only be applied upon conviction. Moreover, as per the business entities, the use of moral suasion is limited as their interaction with the FIU is limited and this may be due in part by the fact that no examinations have been conducted in the past 2 years.

Recommendation: To implement administrative sanctions for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff and to ensure that these measures are applied when the need arises. FIU to also ensure that there is frequent dialogue with these entities both onsite and offsite. Examinations of these entities to be conducted on a more frequent basis also.

Deficiency 7: Considering that there are no record of administrative sanctions or criminal sanctions applied under the AML Act, the supervisory powers of the FIU appears to not have been exercised effectively. There is however no indication that it has applied its supervisory powers in an impartial manner.

Recommendation: To implement administrative sanctions for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff and to ensure that these measures are applied when the need arises.

3. Availability and Enforcement of Administrative Sanctions

Deficiencies: Sec 21 of AML act provides for penalties to be imposed for non-compliance to the AML act only upon conviction. There are no administrative sanctions which the FIU can take for these breaches without the perpetrator being convicted. This applies for monetary penalties, suspension and revocation of business license, which are all upon conviction. It also implies that there are no administrative sanctions which apply to directors, employees, management for breach of the AML act.

Moreover, there is no record of administrative enforcement actions that have been taken in the past by law enforcement authorities for non-compliance with AML requirements within the Other FI category being assessed. Furthermore, no action has also been taken under the NPSA as a result of collaborative work between the FIU and the CBS for non-compliance to the AML act or Regulations for this category of institutions.

Recommendation: To implement and enforce administrative sanctions under the AML act and regulations for non-compliance to the AML act that are applicable to all parties including the reporting entity, directors, management and its staff. In the interim, where possible, the FIU and the CBS to collaborate and make use of provisions of the NPSA and FIA to enforce administrative sanctions against institutions falling under this category.

4. Availability and Enforcement of Criminal Sanctions

Deficiency 1: The fact that there are no record of criminal sanctions against reporting entities in the past 2 years indicates that there is a lack of enforcement of criminal sanctions. Nonetheless, most regulated entities believe that criminal sanctions would be taken against them for breach of AML requirements.

Recommendation: Criminal sanctions should be enforced where there are breaches of the AML act against reporting entities.

Deficiency 2: No criminal enforcement action has been recorded against business institutions and their staff with regards to incidents such as fraud. Nonetheless, there have been fraud cases reported in the past which have been conducted by staff of these institutions whereby the business institution has only

taken necessary action to remove the staff concerned or take other actions. However, the FIU/Other relevant authorities have not taken legal action against the staff in some cases.

Recommendation: Criminal action against staff with regard to other financial crimes should be pursued by the FIU or appropriate authority concerned and powers should be clearly laid out in laws/regulations.

Deficiency 3: No investigation has taken place in the last 2 years, there has not been any prosecutions or convictions that has been recorded for breaches of AML obligations. This may be due to resources constraint of the FIU, lack of policies in place to detect breaches, reluctance to use criminal sanctions, capacity of the judiciary system to deal with such cases.

Recommendation: The FIU to ensure that investigations are conducted and criminal enforcement actions are applied to reporting entities under this category. Information gathered from STRs and from examinations conducted should be recorded in a systematic manner and used to inform investigations which eventually lead to criminal sanctions where it is applicable.

5. Availability and Effectiveness of Entry Controls

Deficiency 1: The policy section of the Payment Systems Division of the Central Bank (PSD) and the Financial Services Supervision Division (FSSD) of the CBS are responsible for the licensing of Class A BDCs and money remittance activities and currently employs a total of 12 staff. These staff possess a basic understanding of the ML risk associated with the activities of these Financial Institutions. However, capacity building is required to enhance the understanding and appreciation of the ML Risk associated with the activities of the supervised entities within this category. Moreover, examinations conducted with AML in scope are not regularly done to understand the risks associated with these entities.

Recommendation: To ensure that training plans include capacity building in terms of AML risk such that staff possess a good understanding and appreciation of the money Laundering Risk associated with the activities of the supervised entities within this category. More frequent examinations of these institutions with AML risks in scope required.

Deficiency 2: Section 6 of the NPSA gives CBS the mandate to license such institutions. The NPSA licensing and authorization Regulations of 2014 contains the legal framework and requirements for all payment service providers which includes remittance activities to obtain a license to undertake such business in Seychelles. Moreover, Section 3 of the FIA 2004 also includes provisions for CBS to license Class A BDCs to undertake such activities. While the FSSD already has internal manuals for processing of such licences, PSD is still in the process of establishing its own manuals for processing of these licences.

Recommendation: PSD to implement manuals for processing of licence applications for the institutions under this category.

Deficiency 3: Section 9(1) i and j of the NPSA licensing regulations requires that the CBS is satisfied that the applicant has directors of good character and professional experience and also that the identity of the applicants' owners, in particular persons holding substantial interest and the good character of such persons. Schedule 4 (section 5) of the NPSA licensing regulations also requires that the applicant submits information on the identity of the person responsible for the management of the specific payment services. Section 5(1) of the FIA also requires identification information to be submitted for owners and substantial interest holders. Moreover it requires identity of administrators which includes directors and Managing Director to be provided. Section 5(1) (e) of the FIA specifically requires beneficial owners to be identified. Section 6 1 d and e of the FIA requires licence to be granted only on satisfaction of the character of owners, substantial interest holders, administrators and beneficial owners.

However, there is a lack of emphasis needed on fit and proper test being done on key management positions within BDCs providing remittance activities within the FIA and NPSA. Moreover, the fit and proper test under the NPSA is not specifically laid out in a manual for PSD. Section 15 (1) of the AML Act does not also cover the character of the compliance officer. It only requires its appointment and states its duties. Additionally, there is also a lack of reliable information sources, especially from law enforcement agencies such as the police, to perform a fit and proper test on these persons. Data from the police are not kept in a systematic manner to allow for reliable references to be obtained for the purpose of undertaking a fit and proper assessment.

Recommendation: Emphasis needed on fit and proper tests being done on key management positions within BDCs providing remittance activities within the FIA and NPSA. E.g. CFOs and Compliance Officers. Set out the Fit and Proper assessment procedure and criteria in manuals for Payment Service Providers .

Deficiency 4: Section 9-1-h and i of the NPSA licensing and authorization regulations requires that an applicant for a payment service provider licence to provide money remittance services has an adequate number of well trained staff and competent staff and management in respect of business needs. Section 9-1-i requires that directors have the relevant professional experience. Section 6-1-c of the FIA also requires that administrators have relevant professional experience. However it is to be noted that in practice, there has not been a case whereby a licence has not been granted to a Class A BDC or under the NPSA due to the lack of professional experience of either the manager, director or other staff within the institution.

Recommendation: To enforce strengthen and enforce requirement for Directors and key management staff within the sector to have the necessary educational and professional certification.

Deficiency 5: Section 15 of the AML act requires all reporting entities to have a compliance officer at the management level of each institution. Nonetheless, in practice, entities within this FI category often do not have compliance officers that are independent from other functions within the organisation. 5 out of 11 Class A BDCs do not have independent compliance officers. Whilst most of the institutions do have AML compliance manuals in place, these manuals are not risk-based in terms of identifying and mitigating ML risk.

Recommendation: There is a need to include specific requirements within the Licensing criteria under the FIA/NPSA to ensure that licensees need to demonstrate adequate AML compliance controls are in place before being granted a licence, including the need for risk-based AML compliance manuals and the appointment of well-trained, independent compliance officers depending on the level of risk associated with the institution's activities. The AML Act or regulations also needs to be strengthened in that regards.

6. Integrity of Business/Institution Staff

Deficiency 1: Business institutions regard their staff members as secure from corruption by criminals in view that there are very few incidents of integrity failure involving their staff members. However, current staff vetting practices in terms of procedures and information which is relied on for the vetting process may not be adequate to ensure the integrity of staff.

Recommendation: FIU to coordinate the setup of necessary infrastructures that allows institutions to obtain necessary information for the vetting of staff before being recruited.

Deficiency 2: There have been limited reported cases of integrity failure by staff in this category of institutions. However, due to the fact that there are no appropriate mechanisms for reporting of breaches of integrity failure by staff, staff that have committed these acts in one institution then gets employed by other institutions within the same sector in view that there is no reliable source of information/mechanism for assessing the integrity of staff. Moreover, although section 15-1-c-vi of the AML act requires that the compliance or reporting officer establishes and maintains procedures and systems to screen persons before recruiting them, in practice, this is not efficient, as there is no reliable source for vetting the employees of the sector.

Recommendation: FIU to coordinate the setup of necessary infrastructures that allows institutions to obtain necessary information for the vetting of staff before being recruited.

7. AML Knowledge of Business/Institution Staff

Deficiency 1: Section 16-3-a of the AML act gives FIU the mandate/responsibility to conduct training of reporting entities in relation to their obligations under the AML Act. AML Act, Section 16- Table 1 - part k provides that the FIU may also provide training programs for reporting entities in relation to customer identification, record keeping and reporting obligations and the identification of suspicious transactions. In practice, the FIU has provided 3 hours of training in the past 2 years. Institutions in this sector are however, of the opinion that the frequency of trainings provided by the FIU is not sufficient. The institutions also acknowledge the fact that they themselves do not have adequate training programs for staff that are held periodically and that is tailored for different levels of staff in an organisation. Moreover, since this function is often to be undertaken by the Compliance Officers, in view that they do not have compliance officers, internal training programs are not conducted. There are no requirements as part of entry controls or renewal of license for these institutions to have the necessary AML training provided to their staff.

Recommendation: FIU to design and document more regular training programs tailored for different levels of staff and where possible should be accredited by a recognized AML training body. Entry controls/renewal of licences under relevant laws/regulations should take into account the need for Institutions to provide adequate AML training to staff. Compliance officers to be appointed and should be responsible for designing and providing AML trainings internally within the institution.

8. Effectiveness of Compliance Function (Organization)

Deficiency 1: Most institutions have internal compliance programs that are not sensitive to the level of risk of the institution. Upon review of the AML and CFT procedures and guidelines of these institutions, their internal compliance programs does not take into account factors such as jurisdictions of end-users, professional intermediary clients, clients that are complex, opaque legal structures, the volume and nature of products provided, the client base profile, the frequency of international transactions.

Recommendation: As part of its supervisory activities, the FIU to undertake review of the Institutions compliance programs focusing on these requirements. To enforce compliance, the FIU should consider requiring such institutions to hire independent compliance and reporting officers based on the level of ML/CFT risk that the institution is exposed to in its activities.

Deficiency 2: Section 15 of the AML act requires all reporting entities to have a compliance officer at the management level of each institution. Nonetheless, in practice, entities within this FI category often do not have compliance officers that are independent from other functions within the organisation. Out of 11 Class A BDCs, only 5 have independent compliance officers.

Recommendation: The AML act needs to be amended such that it requires that reporting entities appoint independent compliance officers for such activities. This can also be applied on risk-sensitive basis depending on the complexity and the exposure of reporting entities to AML risk.

Deficiency 3: According to institutions under this category, disciplinary actions are taken against staff. However, based on statistics there has not been/close to none disciplinary actions that has been taken against staff for non-compliance.

Recommendation: As part of the supervisory process, FIU to include the verification of these incidents and to ensure that necessary disciplinary actions are taken against the staff involved. Moreover, in view that often the same staff who has in the past committed breaches in such institutions are employed in other similar institutions in Seychelles, the FIU should seek to provide facilities for institutions to report these incidents and also have access to this information on recruiting of staff.

Deficiency 4: As per the AML and CFT policy of these institutions, most have annual internal audit covering ML risks. However, the scope of these audits are not detailed enough and the checks are being done by operational staff of the institution itself. Therefore this questions the independence and the integrity of the audit that is performed. Additionally, there are no external AML audits that are conducted by any of the institutions.

Recommendation: Entities under this category should be required to perform annual external audits with AML risk in scope. Policy for internal audits should also be documented which includes assessment of AML risk. This should be implemented and enforced by the FIU through its AML supervision of these entities.

9. Effectiveness of Suspicious Activity Monitoring and Reporting

Deficiency 1: Entities within this category have stand-alone systems for each service that is offered by the institutions. They have manual systems to extract data from each of the systems which are then compiled. It is however difficult to monitor transactions in this manner based on the client's profile. For transactions that are done through international money remittance platforms such as XpressMoney, Western Union, etc... they do have the systems in place for effective monitoring to be done. Whilst for transactions that are done through the commercial banks and which accounts for most of the outward remittance in Seychelles, there is no effective system that is used for monitoring and identifying suspicious transactions, unless done by the banks themselves.

Though they aggregate transactional records in a central database, the database/system does not facilitate the comparison of client's risk profile against the transactions and does not contain necessary information to screen transactions. Whilst the use of systems such as MoneyGram, XpressMoney, etc... incorporates automated functionalities that identify such transactions against sanctions list and identifies PEPs, when other methods of transfer (e.g. transfers done through banks) are used the institutions do not have the capability of identifying such transactions. This is in view that there is no inbuilt capability in the proprietary systems that BDCs use to record transactions on their side to perform such automated screening.

Recommendation:The FIU to ensure that examinations of institutions are conducted to ensure that institutions put in place the necessary systems to allow them to identify and report such transactions in an effective manner. Moreover, regulators should consider to include as a requirement at the licensing stage that institutions have in place the necessary systems to allow for such screening and monitoring of transactions to be done.

Annex 18

Detailed analysis of criteria for Buying and Selling of FX

1. Comprehensiveness of AML legal framework
Similar to remittance assessment.
2. Effectiveness of AML Supervision/Oversight Activities
Similar to remittance assessment.
3. Availability and Enforcement of Administrative Sanctions
Similar to remittance assessment.
4. Availability and Enforcement of Criminal Sanctions
Similar to remittance assessment.
5. Availability and Effectiveness of Entry Controls

Deficiency 1: The policy section of the FSSD of the CBS is responsible for the licensing of Class A and B BDCs to conduct buying and selling of FX and currently employs a total of 9 staff. These staff possess a basic understanding of the ML risk associated with the activities of these FI categories. However, capacity building is required to enhance the understanding and appreciation of the money Laundering Risk associated with the activities of the supervised entities within this category. Statistics show that there has been little or no training conducted on ML risk for staff processing these applications in the past 2 years. Moreover, examinations not conducted on a frequent basis with AML in scope to understand the risks associated with these entities.

Recommendation: To ensure that training plans include capacity building in terms of AML risk such that staff possess a good understanding and appreciation of the money Laundering Risk associated with the activities of the supervised entities within this category. More frequent examinations of these institutions with AML in scope required.

Deficiency 2: Section 5(1) of the FIA also requires identification information to be submitted for owners and substantial interest holders. Moreover it requires identity of administrators which includes directors and Managing Director to be provided. Section 5(1) (e) of the FIA specifically requires beneficial owners

to be identified. Section 6 1 d and e of the FIA requires licence to be granted only on satisfaction of the character of owners, substantial interest holders, administrators and beneficial owners. Nonetheless, there is a lack of emphasis on fit and proper test being done on key management positions within BDCs providing such services within the FIA.

Section 15 (1) of the AML act does not also cover the character of the compliance officer. It only requires its appointment and states its duties. There is also a lack of reliable information sources, especially from law enforcement agencies such as the police, to perform a fit and proper test on these persons. Data from the police needs to be kept in a systematic manner to allow for reliable references to be obtained for the purpose of undertaking a fit and proper assessment.

Recommendation: Emphasis needed on fit and proper test being done on key management positions within BDCs providing such services within the FIA. E.g. CFOs and Compliance Officers. Moreover, the AML act needs to be enhanced such that it requires at a minimum that compliance officers are persons of good character. Additionally, data from the police needs to be kept in a systematic manner to allow for reliable references to be obtained for the purpose of undertaking a fit and proper assessment.

Deficiency 3: Section 6-1-c of the FIA also requires that administrators have relevant professional experience. In considering an application for a licence, section 6(1) of the FIA states that the Central Bank shall conduct such investigation as it may deem necessary and shall grant a licence to the applicant on being satisfied to the character and professional experience of its administrators. At present, only administrators i.e. directors and managing director or chief executive officer are required to submit completed PQs and other information as required for the fit and proper assessment. The PQ will require the nominee to divulge their academic background, professional qualifications and membership of any professional bodies as well as their employment history over the past ten years from which the Central bank can make an assessment on the education and competence of the proposed administrators.

In addition, as described above, the Central Bank shall have regard to the following -

- (a) the applicant's probity, competence, experience and soundness of judgment for fulfilling the responsibilities of the proposed business;
- (b) the diligence with which the applicant is fulfilling or is likely to fulfill these responsibilities;
- (c) the applicant's educational and professional qualifications, and membership of professional or other relevant bodies as applicable;
- (d) the applicant's knowledge and understanding of the professional obligations to be assumed or undertaken;
- (e) any evidence that the applicant has committed an offence involving dishonesty or has contravened a law designed to protect any member of the public arising from dishonesty, incompetence, malpractice or conduct of discharged or undischarged bankrupts or otherwise insolvent persons;

(f) such other information which may come to the notice of the Central Bank.

The law does not specifically state the requirement for professional certification but it is for the Central Bank to satisfy itself on the character and professional experience of its administrators.

It is also to be noted that in practice, there has not been a case whereby a licence has not been granted to a Class A or B BDC due to the lack of professional experience of either the manager, director or other staff within the institution.

Recommendation: To strengthen and enforce requirement for Directors and key management staff within the sector to have the necessary educational and professional certification.

Deficiency 4: Section 15 of the AML act requires all reporting entities to have a compliance officer at the management level of each institution. Nonetheless, in practice, entities within this FI category often do not have compliance officers that are independent from other functions within the organisation.

Moreover, whilst most of the institutions do have AML compliance manuals in place, these manuals are not risk-based in terms of identifying and mitigating ML risk.

Recommendation: There is a need to include specific requirements within the Licensing criteria under the FIA to ensure that licensees need to demonstrate adequate AML compliance controls are in place before being granted a licence, including the need for risk-based AML compliance manuals and the appointment of well-trained independent compliance officers depending on the level of ML risk associated with the activities of such institutions.

The AML act and regulations also needs to be strengthened to require that Compliance Officers are well qualified.

6. Integrity of Business/Institution Staff

Similar to remittance market

7. AML Knowledge of Business/Institution Staff

Similar to remittance market

8. Effectiveness of Compliance Function (Organization)

Similar to remittance market

9. Effectiveness of Suspicious Activity Monitoring and Reporting

Deficiency 1: BDCs conducting such activities have stand-alone, manual systems to record transactions. It is however difficult to monitor transactions in this manner based on the client's profile. There is no effective system that is used for monitoring and identifying suspicious transactions. Whilst they aggregate

transactional records in a central database, the database/system does not facilitate the comparison of client's risk profile against the transactions and does not contain necessary information to screen transactions. There is no inbuilt capability in the systems that BDCs use to record transactions on their side to perform such automated screening. The BDCs do not have the necessary systems to allow them to monitor and record such complex or unusually large transactions. As per questionnaire response provided by the FIU, the institutions' staff are not aware of the scope of their reporting obligations on suspicious transactions and activities and are also not aware of the type of suspicious transactions and activities which are covered and not covered under respective laws.

Recommendation: The FIU to ensure that examinations of institutions are conducted to ensure that institutions put in place the necessary systems to allow them to identify and report such transactions in an effective manner. Moreover, regulators should consider to include as a requirement at the licensing stage that institutions have in place the necessary systems to allow for such screening and monitoring of transactions to be done.

Annex 19

Detailed analysis of criteria for Other lenders

1. Comprehensiveness of AML legal framework

Deficiency 1: The Housing Finance Company Limited (HFC) is a financial body which was incorporated on 21 May 2003 under the Companies Act, 1972. The HFC is a fully government owned company. In 2009, the Government delegated and transferred specific powers from the then named Ministry of National Development which held the portfolio of HFC to the Central Bank. As such, whilst HFC operates under the FIA, not all provisions of the FIA are applicable to the HFC.

The provisions of the FIA relating to licensing including sections 5 and 6 are not applicable to the HFC.

Credit Unions are governed by the Credit Union Act, 2009, as amended, (CU Act). With regards to the establishment of credit unions, section 3(1) of the CU Act, states that it is the Minister who may, by Order published in the Gazette, establish a credit union. This Minister will be the Minister responsible for Finance. However, as per section 52 of the CU Act, the Minister shall designate a Regulatory Authority to regulate and supervise the affairs of credit unions established under this Act. In accordance with section 52, on August 21, 2009, the Minister of Finance by the notice which may be cited as the Credit Union (Designation of Authority) Notice, 2009 designated the Central Bank of Seychelles as the Regulatory Authority for the purpose of the Credit Union Act, 2009.

The Development Bank of Seychelles (DBS) was established in 1977 under Decree No.21 as a development finance institution with a specific mandate to assist in the economic development of the Seychelles. In 2009, the Government delegated and transferred specific powers to the Central Bank. As such, whilst DBS operates under the FIA, not all provisions of the FIA are applicable to the DBS.

The provisions of the FIA relating to licensing including sections 5 and 6 are also not applicable to the DBS.

Recommendation: To review the laws to ensure that the licensing and registration regime for such companies are in line with international standards.

Deficiency 2: There are no requirement for putting in place internal controls in the AML Act or AML Regulations with the exception of Sec 15 of AML act which however does not cover policies for sharing of information within the group.

Moreover, AML act or regulations does not require foreign branches and subsidiaries to apply AML/CFT measures consistent with the home country.

Recommendation: Ensure requirements on internal controls are at par with international standards. AML act or regulations does to require foreign branches and subsidiaries to apply AML/CFT measures consistent with the home country in accordance with the FATF recommendations.

Deficiency 3: The FIA requires due diligence on all directors, shareholders and beneficial owners of DBS and HFC. "As per section 70A(b) of the CU Act, the Regulatory Authority may, in consultation with the Boards of all credit unions, make rules to provide for the manner of approval of members of a credit union for election to the Board and Supervisory Committee under section 14(3A). Such rules have yet to be issued by CBS and are in the stage of development. At present, nominations to the Board and Supervisory Committee are assessed using the Guidelines on Fit and Proper Criteria and bearing in mind provisions under the CU Act. For example, it is noted that section 14(6) of the CU Act states that no member of the credit union shall be eligible to be appointed to the Board or Supervisory Committee, if he –

(a) is mentally or physically incapable of carrying out the functions as a member of the Board or Supervisory Committee;

(b) has been convicted for an offence involving felony, fraud or dishonesty;

(c) is undischarged insolvent or bankrupt

Recommendation: CBS to implement rules to provide for the manner of approval of members of a credit union for election to the Board and Supervisory Committee under section 14(3A).

2. Effectiveness of AML Supervision/Oversight Activities

Similar to remittance assessment.

3. Availability and Enforcement of Administrative Sanctions

Similar to remittance assessment.

4. Availability and Enforcement of Criminal Sanctions

Similar to remittance assessment.

5. Availability and Effectiveness of Entry Controls

Deficiencies: The Housing Finance Company Limited (HFC) is a financial body which was incorporated on 21 May 2003 under the Companies Act, 1972. The HFC is a fully government owned company. In 2009, the Government delegated and transferred specific powers from the then named Ministry of National Development which held the portfolio of HFC to the Central Bank. As such, whilst HFC operates under the FIA, not all provisions of the FIA are applicable to the HFC. The provisions of the FIA relating to licensing including sections 5 and 6 are not applicable to the HFC.

Credit Unions are governed by the Credit Union Act, 2009, as amended, (CU Act). With regards to the establishment of credit unions, section 3(1) of the CU Act, states that it is the Minister who may, by Order published in the Gazette, establish a credit union. This Minister will be the Minister responsible for Finance. However, as per section 52 of the CU Act, the Minister shall designate a Regulatory Authority to regulate and supervise the affairs of credit unions established under this Act. In accordance with section 52, on August 21, 2009, the Minister of Finance by the notice which may be cited as the Credit Union (Designation of Authority) Notice, 2009 designated the Central Bank of Seychelles as the Regulatory Authority for the purpose of the Credit Union Act, 2009.

The Development Bank of Seychelles (DBS) was established in 1977 under Decree No.21 as a development finance institution with a specific mandate to assist in the economic development of the Seychelles. In 2009, the Government delegated and transferred specific powers to the Central Bank. As such, whilst DBS operates under the FIA, not all provisions of the FIA are applicable to the DBS. The provisions of the FIA relating to licensing including sections 5 and 6 are not applicable to the DBS.

Moreover, capacity building is required to enhance the understanding and appreciation of the ML Risk associated with the activities of the supervised entities within this category. Statistics show that there has been little or no training conducted on ML risk for staff supervising these entities.

Examinations need to be conducted on a more frequent basis with AML in scope to understand the risks associated with these entities.

Section 6-1-c of the FIA also requires that administrators have relevant professional experience at the licensing stage which however does not apply to HFC and DBS.

Section 43 of the FIA is applicable to HFC and DBS. At present, only administrators i.e. directors and managing director or chief executive officer are required to submit completed PQs and other information as required for the fit and proper assessment. The PQ will require the nominee to divulge their academic

background, professional qualifications and membership of any professional bodies as well as their employment history over the past ten years from which the Central bank can make an assessment on the education and competence of the proposed administrators.

At present, only the following will disqualify an individual from becoming an administrator:

(a) if he or she has been adjudged to be bankrupt, has suspended payment or has entered into a composition with his or her creditors; or

(b) he or she has been convicted in a court of law of a felony or any offence involving fraud or dishonesty

(c) if the person has been an administrator of a financial institution which has been wound up by the court or the licence of which has been revoked provided that in exceptional circumstances, having been satisfied as to the qualifications, professional experience and conduct of a person, the Central Bank may exempt such person from the foregoing provisions of this subsection no earlier than 6 years following the relevant winding-up or licence revocation.

At present, the fit and proper assessment of nominees to the Board or Supervisory Committees of Credit Unions are conducted using the Guidelines on Fit and Proper Criteria used for administrators of financial institutions. These guidelines are not legally enforceable and the rules to prescribe for the manner of approval of members of a credit union for election to the Board and Supervisory Committee under section 14(3A) have yet to be issued. In addition, these rules will only be applicable to the Board and Supervisory Committee nominees and not senior management including the CEO of a credit union.

With respect to CEOs of credit unions, as per section 23(1) of the CU Act, the Board shall, subject to the approval of a general meeting of the members of the credit union, appoint a person as the Chief Executive Officer of the credit union, who has expertise and experience in the fields of finance, banking, accounting, management, cooperation or any other field related to operation of a credit union. It is also noted that the Board of a credit union is composed of a chairperson, a vice-chairperson and three other members and section 15(2) of the CU Act states that the chairperson and vice-chairperson shall be persons of good standing in the financial, banking, accounting, legal or such other profession as the policies of the credit union may allow.

Section 15 of the AML act requires all reporting entities to have a compliance officer at the management level of each institution. However, in practice, no compliance manuals or policies in place for these institutions and there is no compliance officer."

Recommendations: To review the laws to ensure that the licensing and registration regime for such companies are in line with international standards and including entry controls. The Authority that is identified to be responsible for the licensing of such entities need to have the necessary resources for conducting such tasks. There is also a need to include specific requirements within the Licensing criteria under relevant laws/regulations to ensure that licensees need to demonstrate adequate AML compliance controls are in place before being granted a licence, including the need for risk-based AML compliance

manuals and the appointment of well-trained compliance officer. The AML act and regulations also need to be strengthened to require that Compliance Officers are well qualified.

Implement a requirement for fit and proper test at the licensing stage for DBS, HFC and SCU and to strengthen and enforce requirement for key Directors and senior management within the sector to have the necessary educational and professional certification.

To ensure that training plans include capacity building in terms of AML risk such that staff possess a good understanding and appreciation of the money Laundering Risk associated with the activities of the supervised entities within this category.

6. Integrity of Business/Institution Staff

Deficiencies: Business institutions regard their staff members as secure from corruption by criminals in view that there are very few incidents involving their staff members. However, current staff vetting practices in terms of procedures and information which is relied on for the vetting process may not be adequate to ensure the integrity of staff.

There have been limited reported cases of integrity failure by staff in this category of institutions. However, due to the fact that there is no appropriate mechanisms for reporting of breaches of integrity failure by staff which may lead to underreporting, staff that have committed these acts in one institution then gets employed by other institutions within the same sector in view that there is no reliable source of information/mechanism for assessing the integrity of staff.

Moreover, although section 15-1-c-vi of the AML act requires that the compliance or reporting officer establishes and maintains procedures and systems to screen persons before recruiting them, in practice, this is not efficient, as there is no reliable source for vetting the employees of the sector. Moreover, these institutions do not have a compliance officer for this purpose.

Recommendations: FIU to coordinate the setup of necessary infrastructures that allows institutions to obtain necessary information for the vetting of staff before being recruited. Institutions to also recruit a compliance officer to perform duties assigned under the AML act.

7. AML Knowledge of Business/Institution Staff

Similar to remittance assessment.

8. Effectiveness of Compliance Function (Organization)

Deficiencies: No internal compliance program exists for these entities. Moreover, none of the institutions within this category have a compliance officer. Additionally, institutions within this category do not have compliance policies and as such no disciplinary action has been taken against staff for such breaches.

Whilst one of the institutions have annual internal audit covering AML, the other 2 do not. However, the scope of these audits are not documented and the checks are being done by operational staff of the institution itself. Therefore this questions the independence and the integrity of the audit that is performed. Additionally, there are no external AML audits that are conducted by any of the institutions. The scope of annual external audits do not include the AML aspect.

Recommendations:As part of its supervisory activities, the FIU to undertake review of the Institutions compliance programs focusing on these requirements. To enforce compliance, the FIU should consider requiring such institutions to hire independent compliance and reporting officers based on the level of AML/CFT risk that the institution is exposed to in its activities. FIU to ensure that institutions implement compliance policies. Entities under this category should be required to perform annual external audits with AML risk in scope. Policy for internal audits should also be documented which includes assessment of AML risk. This should be implemented and enforced by the FIU through its AML supervision of these entities.

9. Effectiveness of Suspicious Activity Monitoring and Reporting

Deficiencies:Firms report that they do have systems that that allows some form of monitoring. The effectiveness of these systems cannot be ascertained however, in view that the firms have not submitted any suspicious transactions report in the past 2 years.

Whilst they aggregate transactional records in a central database, the database/system does not facilitate the comparison of client's risk profile against the transactions and does not contain necessary information to screen transactions. Firms mostly do not have the necessary systems to allow them to identify and monitor such transactions.

As per questionnaire response provided by the FIU, the institutions' staff are not aware of the scope of their reporting obligations on suspicious transactions and activities and are also not aware of the type of suspicious transactions and activities which are covered and not covered under respective laws.

Recommendations:The FIU to ensure that examinations of institutions are conducted to ensure that institutions put in place the necessary systems to allow them to identify and report such transactions in an effective manner. Moreover, regulators should consider to include as a requirement at the licensing stage that institutions have in place the necessary systems to allow for such screening and monitoring of transactions to be done. Firms' systems should be able to screen PEPs and against sanctions lists.

Annex 20: TF Vulnerabilities

TF Vulnerability (Part 1)

| | A | B | C |
|----|---|---|---|
| | TERRORISM FINANCING VULNERABILITY | | INFORMATION |
| 1 | | Strengths and positive aspects | Weaknesses, gaps, and challenges |
| 2 | | | |
| 3 | Quality of legislation | | |
| 4 | Availability and effectiveness of TF crime definition in penal code or other relevant law(s) | All relevant legislation is enacted. | Cases to be tested in court. |
| 5 | Availability and effectiveness of laws and regulations regarding targeted financial sanctions regimes to comply with UN Security Council resolutions relating to TF | All relevant legislation is enacted. (Regulations 2015 dealing with process of UN sanctions. 2016 Prevention of Terrorism Act, enacted in March 2016 updating the existing legislation) | Cases to be tested in court. |
| 6 | <i>Other relevant laws which, through their existence or lack thereof, may create TF vulnerabilities</i> | N/A | Cases to be tested in court. Penal Code needs updating. Registration of Associations Act 1959 needs revision. |
| 7 | Quality of intelligence | | |
| 8 | Quality of intelligence gathering and processing (e.g., intelligence officer/unit specialized in terrorism and its financial aspect) | FIU is a member of the EGMONT Group of FIUs worldwide. (MLAT + Interpol – Morgan) | Inefficiency of cross national coordination. |
| 9 | Effectiveness of domestic cooperation on CTF | National AML Committee. National CTF Committee. Cooperation between the Ministry of Home Affairs (Police and Immigration) and the and office of the President. | Lack of experience of addressing the incidences of TF. Legal challenge to the new legislation. |
| 10 | Effectiveness of TF-related Suspicious Transaction Reporting, Monitoring and Analysis | | |
| 11 | Number of STR related to TF analysis | N/A | Feedback from international agencies |
| 12 | Number of cases forwarded to LEAs/investigation related to TF cases | N/A | Feedback from international agencies |
| 13 | Capacity and commitment of reporting institutions to comply with UN Security Council screening requirements | Legislation and setting up of National CTF committee. | Lack of experience of addressing the incidences of TF. Legal challenge to the new legislation. |
| 14 | Adequacy of resources | | |
| 15 | Adequacy of human resources for CTF (incl. specialized investigators, FIU and intelligence officers, prosecutors, and judges) | Relevant agency structure in place with adequate expertise and resources. (FIU/AG) | Maintaining necessary training programmes. Securing international donor funding. |
| 16 | Adequacy of the financial resources allocated to terrorism financing investigations and broader research on terrorism financing within a country context | Dedicated TF committee in place that is adequately resourced. | Ability to carry out TF typologies relative to Seychelles and the region. |
| 17 | Effectiveness of international cooperation | | |
| 18 | Legal basis for international cooperation related to TF (e.g., legislation and treaties) | MLA act 1995. | Testing of legislation in the courts. |

| | A | D | E | F |
|----|---|--|--|---|
| 1 | TERRORISM FINANCING VULNERABILITY | INFORMATION | | NEGATIVE IMPACT ON VULNERABILITY |
| 2 | | Statistics/data (if applicable) | Input from FATF/FSRB Mutual Evaluation Report (if applicable) | L, ML, M, MH, H |
| 3 | Quality of legislation | | | |
| 4 | Availability and effectiveness of TF crime definition in penal code or other relevant law(s) | | 0 Compliant | L |
| 5 | Availability and effectiveness of laws and regulations regarding targeted financial sanctions regimes to comply with UN Security Council resolutions relating to TF | | 0 Compliant | L |
| 6 | <i>Other relevant laws which, through their existence or lack thereof, may create TF vulnerabilities</i> | N/A | N/A | M/L |
| 7 | Quality of intelligence | | | |
| 8 | Quality of intelligence gathering and processing (e.g., intelligence office/unit specialized in terrorism and its financial aspect) | N/A | N/A | M/L |
| 9 | Effectiveness of domestic cooperation on CTF | N/A | N/A | M/L |
| 10 | Effectiveness of TF-related Suspicious Transaction Reporting, Monitoring and Analysis | | | |
| 11 | Number of STR related to TF analysis | 2 cases reported | N/A | M/L |
| 12 | Number of cases forwarded to LEAs/investigation related to TF cases | 2 cases reported | N/A | M/L |
| 13 | Capacity and commitment of reporting institutions to comply with UN Security Council screening requirements | | 0 N/A | M/L |
| 14 | Adequacy of resources | | | |
| 15 | Adequacy of human resources for CTF (incl. specialized investigators, FIU and intelligence officers, prosecutors, and judges) | N/A | N/A | L |
| 16 | Adequacy of the financial resources allocated to terrorism financing investigations and broader research on terrorism financing within a country context | N/A | N/A | L |
| 17 | Effectiveness of international cooperation | | | |
| 18 | Legal basis for international cooperation related to TF (e.g., legislation and treaties) | N/A | N/A | M/L |

(Part 2)

| | A | B | C |
|----|---|--|--|
| 1 | TERRORISM FINANCING VULNERABILITY | | INFORMATION |
| 2 | | Strengths and positive aspects | Weaknesses, gaps, and challenges |
| 19 | Number of mutual legal requests received and timeliness of response on TF cases | <p>CAP135A Mutual Assistance in Criminal Matters Act (1995)</p> <p>Scheme relating to Mutual Assistance in Criminal Matters (The Harare Scheme). Applies to Commonwealth countries</p> <p>The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1970)</p> <p>*Memorandum of Understanding between the Office of the Attorney General of the Republic of Seychelles and the Prosecutor's General's Office of the Russian Federation*, Signed by the Attorney General in May 2012, and in force.</p> | <p>In Accordance with applicable legislation the Foreign Affairs Department (FAD) forwards requests for assistance in legal matters to the relevant agencies. In most cases the AGO functions as the executing authority, especially for requests related to criminal procedures in preparatory phase. Service of documents are sent to the Registrar of the Supreme Court and enquiries about registration of companies may be sent to the Financial Services Authority or the Seychelles Revenue Commission. A limitation to the scope of this work is that the FAD is not and will not be in the position to establish a classification for each of this requests, i.e. whether it relates to 'Threat of TF/Terrorism', mainly because it is not within its statutory functions. The quality of the 'request' itself usually hinders the efficiency of the gathering of information. Requests which miss information or documents or are not translated in our official languages, etc. do not allow us to fully complete our records/database.</p> |
| 20 | Number of mutual legal requests made on TF or terrorism | <p>CAP135A Mutual Assistance in Criminal Matters Act (1995)</p> <p>Scheme relating to Mutual Assistance in Criminal Matters (The Harare Scheme). Applies to Commonwealth countries</p> <p>The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1970)</p> <p>*Memorandum of Understanding between the Office of the Attorney General of the Republic of Seychelles and the Prosecutor's General's Office of the Russian Federation*, Signed by the Attorney General in May 2012, and in force.</p> | <p>Outgoing requests are much less frequent than incoming (Seychelles rarely request assistance in legal matters; at least not through the diplomatic channel). Outgoing requests are also processed by the FAD, which entails ensuring that they reach their destination abroad (the requesting authority). Outgoing requests are given similar treatment as incoming requests which have been executed and require communication to the requesting Agency. However, again, as the classification of 'Threat of TF/Terrorism' is outside of the scope of the functions of the FAD we see no omission in our procedures. Notwithstanding, having the advice or information of a relevant agency in this respect could allow the FAD to include classifications in its records, as the case may be.</p> |

| | A | D | E | F |
|----|---|--|--|---|
| 1 | TERRORISM FINANCING VULNERABILITY | INFORMATION | | NEGATIVE IMPACT ON VULNERABILITY |
| 2 | | Statistics/data (if applicable) | Input from FATF/FSRB Mutual Evaluation Report (if | L, ML, M, MH, H |
| 19 | Number of mutual legal requests received and timeliness of response on TF cases | The FAD keeps rather accurate records of incoming legal requests. The data is organized by name of country, case number or name, date of receipt, forwarding date by the FAD to the relevant agency and other information such as updates on reply, execution, follow up, etc. However the FAD is not and will not be in the position to establish statistics for each of this requests, i.e. whether it relates to 'Threat of TF/Terrorism', mainly because it is not within its statutory functions. To our understanding and knowledge the FAD has to the date not processed any MLRs that relate to funding of groups such as Al Shabaab, Al Qaeda, ISIS etc... or even piracy linked to terrorism. | N/A | ML |
| 20 | Number of mutual legal requests made on TF or terrorism | The FAD keeps rather accurate records of incoming legal requests. The data is organized by name of country, case number or name, date of receipt, forwarding date by the FAD to the relevant agency and other information such as updates on reply, execution, follow up, etc. However the FAD is not and will not be in the position to establish statistics for each of this requests, i.e. whether it relates to 'Threat of TF/Terrorism', mainly because it is not within its statutory functions. No statistics available for the already explained reasons. To our understanding and knowledge the FAD has to the date not processed any MLRs that relate to funding of groups such as Al Shabaab, Al Qaeda, ISIS etc... or even piracy linked to terrorism. | N/A | L |

(Part 3)

| | A | B | C |
|----|--|---|---|
| 1 | TERRORISM FINANCING VULNERABILITY | INFORMATION | |
| 2 | | Strengths and positive aspects | Weaknesses, gaps, and challenges |
| 21 | Informal cooperation on TF cases (e.g., intelligence to intelligence, police to police, FIU to FIU, supervisor to supervisor) | FIU member of the EGMONT Group. Engagement with Interpol and other key international agencies. | Attendance by relevant agencies in the country at international training and networking events. |
| 22 | Awareness and commitment to fight TF | | |
| 23 | Political commitment to fight TF and terrorism | Relevant legislation in place. | Keeping up to date with international trends. Update in legislation. |
| 24 | Awareness and commitment among the policy makers, law enforcement, FIU and intelligence community to fight TF | Relevant legislation in place, including the setting up of relevant committees. (National Risk Assessment ML/TF). | Recommendations and actions from the NRA. |
| 25 | Geographic and demographic factors | | |
| 26 | Geographic factors that may facilitate TF and increase vulnerability to TF | Information from the IDC indicates that only 3 islands of the 115 islands are inhabited. | Inability to monitor some of the 115 islands of the Seychelles. Furthest island from the capital can be reached within 3 hours by air and 3 days by sea. Seychelles's strategic location in the Indian Ocean. |
| 27 | Demographic factors that may facilitate TF and increase the vulnerability to TF | Multiculturally tolerant society with the constitutionally protected freedom to practice any religion. | Social factors: youth unemployment, drug use, Political instability, |
| 28 | Other factors | | |
| 29 | <i>discuss with the National Vulnerability Working Group if there are money laundering vulnerabilities that impact the TF vulnerability. Add rows to this table to capture relevant factors.</i> | | |
| 30 | | | |
| 31 | Overall vulnerability to TF | Depending on your analysis above, assess the overall vulnerability of the country to terrorism financing: | |
| 32 | | | |

| | A | D | E | F |
|----|---|---|--|---|
| 1 | TERRORISM FINANCING VULNERABILITY | INFORMATION | | NEGATIVE IMPACT ON VULNERABILITY |
| 2 | | Statistics/data (if applicable) | Input from FATF/FSRB Mutual Evaluation Report (if | L, ML, M, MH, H |
| 21 | Informal cooperation on TF cases (e.g., intelligence to intelligence, police to police, FIU to FIU, supervisor to supervisor) | N/A | N/A | L |
| 22 | Awareness and commitment to fight TF | | | |
| 23 | Political commitment to fight TF and terrorism | N/A | N/A | L |
| 24 | Awareness and commitment among the policy makers, law enforcement, FIU and intelligence community to fight TF | N/A | N/A | M/L |
| 25 | Geographic and demographic factors | | | |
| 26 | Geographic factors that may facilitate TF and increase vulnerability to TF | N/A | N/A | M |
| 27 | Demographic factors that may facilitate TF and increase the vulnerability to TF | N/A | N/A | M/L |
| 28 | Other factors | | | |
| 29 | <i>*discuss with the National Vulnerability Working Group if there are money laundering vulnerabilities that impact the TF vulnerability. Add rows to this table to capture relevant factors.</i> | | | |
| 30 | | | | |
| 31 | Overall vulnerability to TF | Depending on your analysis above, assess the overall vulnerability of the country to terrorism financing: | | M/L |
| 32 | | | | |