

**Seychelles: Assessment of the Supervision and Regulation of the Financial Sector—
Review of Financial Sector Regulation and Supervision**

This review of financial sector regulation and supervision in **Seychelles** in the context of the offshore financial center assessment program contains technical advice and recommendations given by the staff team of the International Monetary Fund in response to the authorities of Seychelles' request for technical assistance. It is based on the information available at the time it was completed in **October 2004**. The views expressed in these documents are those of the staff team and do not necessarily reflect the views of the government of **Seychelles** or the Executive Board of the IMF.

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**ASSESSMENT OF THE SUPERVISION AND REGULATION OF THE
FINANCIAL SECTOR**



**Review of Financial Sector Regulation
and Supervision**

Seychelles

OCTOBER 2004

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LIST OF ABBREVIATIONS

AML	Anti-Money Laundering
BCPs	Basel Core Principles
BSD	Bank Supervision Division
CFT	Combating the Financing of Terrorism
CBS	Central Bank of Seychelles
CBA	Central Bank Act
DBS	Development Bank of Seychelles
FIA	Financial Institutions Act
FIRST	Financial Sector Reform and Strengthening Initiative
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
IBC	International Business Company
IOT	Indian Ocean Tuna
MLUH	Ministry of Land Use and Habitat
MOF	Ministry of Finance
NGOs	Nongovernmental Organizations
NPL	Nonperforming Loan
OFC	Offshore Financial Center
SACOS	State Assurance Company of Seychelles
SCU	Seychelles Credit Union
SIBA	Seychelles International Business Authority
SITZ	Seychelles International Trade Zone
SR	Seychelles Rupee
SHDC	Seychelles Housing Development Corporation
SSB	Seychelles Savings Bank

PREFACE

At the request of the Central Bank of Seychelles, an MAE-led mission visited Victoria during June 18-July 2, 2002, to assess observance of financial sector supervisory standards in the context of a stand-alone OFC (Module 2) assessment.¹ The assessment focused on observance of international supervisory standards in the banking sector and arrangements for anti-money laundering and combating the financing of terrorism.² The mission also surveyed the operations of, and regulatory framework applied to nonbank financial institutions such as insurance companies, certain parastatal financial institutions, company and company service providers and trust and trust service providers, but these activities are relatively small and were not assessed relative to international standards.

The assessment was carried out by a team comprising Ms. Patricia Brenner (Mission Chief, Monetary and Exchange Affairs Department (MAE) of the International Monetary Fund (IMF), Ms. Maike Luedersen (Legal Department (LEG, IMF), Mr. John Aspden (Chief Executive, Financial Supervision Commission, Isle of Man), Mr. Stanley Silverberg (banking expert, formerly United States Federal Deposit Insurance Corporation), and Ms. Hannah Faux, Administrative Assistant (MAE, IMF).

The mission met with the Governor of the Central Bank, the General Manager of the Central Bank, the Attorney General, the Minister of Industry and International Business, the General Manager of the Seychelles International Business Authority, the Ministry of Foreign Affairs, the insurance and credit union supervisor at the Ministry of Finance, the Development Bank of Seychelles, the Seychelles Housing Development Corporation, the Registrar of Companies, the Assistant Commissioner of Police, and their staffs. The mission also held discussions with foreign and domestic banks, insurance companies, the Seychelles Credit Union, bank auditors and registered agents for international business companies and trusts, and a foreign exchange bureau.

The mission is very grateful for the excellent cooperation and gracious hospitality extended by the Central Bank, other Seychelles authorities and market participants during its stay in Seychelles.

This report was completed in August 2002. The Seychelles authorities agreed to publish it in April 2004. Appendix II (prepared by the authorities) reflects, as of August 2004, the actions the authorities have taken, or plan to take in response to the recommendations of the report.

¹ The Module 2 assessment is described in "*Offshore Financial Centers—The Role of the IMF*" (June 23, 2000).

² The AML/CFT arrangements were reviewed on the basis of the draft Fund and Bank Methodology for Assessing Legal, Institutional and Supervisory/Regulatory Aspects of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT Methodology) of April 2002.

EXECUTIVE SUMMARY

At the request of the Central Bank of Seychelles, an MAE mission visited Victoria during June 18-July 2, 2002, to conduct a Module 2 assessment in the context of the IMF's Offshore Financial Centers (OFC) initiative. The assessment considered compliance with supervisory and regulatory principles relative to the Basel Core Principles for Effective Banking Supervision in the banking sector. In addition, the mission evaluated Seychelles' arrangements for anti-money laundering and combating terrorist financing in the banking sector, using the IMF and World Bank Draft AML/CFT Methodology. Finally, the mission surveyed the arrangements for regulation and supervision of nonbank financial institutions and offshore financial service providers.

The domestic financial sector in Seychelles comprises six commercial banks, a specialized development bank, a housing finance company, a credit union, two insurance companies, and a foreign exchange bureau. The nondomestic (offshore) financial sector consists of two (dormant) insurance companies, more than 9,000 international business companies (IBCs), 25 licensed international trade zone companies, and 49 trusts. Also, a temporary license has been granted to an offshore investment bank, but the bank has not started operations, pending approval of enabling legislation.

Although no formal monetary policy objectives are specified in the Central Bank Act, in practice monetary policy has been geared toward controlling the cost of financing the government's present and past budget deficits (reflected in high levels of official external and domestic debt) and promoting the development of priority sectors. External and price objectives have not been of immediate concern in the monetary policy decision-making process, as both the exchange rate and many prices are administratively set. These objectives are also in line with the institutional framework, with close links between the Central Bank and the Ministry of Finance.

Regulation and supervision of the banking sector and foreign exchange bureaus is carried out by the Bank Supervision Division of the Central Bank. Supervision of the credit union and the insurance companies is less formal, and carried out within the Ministry of Finance. Supervision of the housing finance company is shared by the Ministry of Finance and the Ministry of Land Use and Habitat. The development bank has no designated supervisor, but its Board includes representatives from several key ministries. Licensing and supervision of offshore financial activity (IBCs, trusts, Seychelles International Trade Zone (SITZ) companies, and offshore insurance companies) is the responsibility of the Seychelles International Business Authority (SIBA).

The financial system in Seychelles is characterized by a low level of bank lending to the private sector, with the bulk of banking assets held in government obligations, mainly Treasury instruments; the important role in housing credit played by the parastatals; excess liquidity in the banking system and limited demand for credit, in part caused by the shortage of foreign exchange as well as declining real GDP in the past three years; and management preoccupation with managing exchange controls, and complying with related regulations,

rather than with the core banking business of collecting deposits and extending credit. Despite all the above, banks appear to enjoy an adequate level of profitability.

Seychelles' overall degree of compliance with the BCPs was found to be modest, given the close links between the Central Bank and the Ministry of Finance, and effective fiscal dominance in the allocation of credit. The Governor of the Central Bank is presently also the Principal Secretary for Finance, and the latter is a voting member of the Board of the Central Bank. In addition, there are many provisions of the Financial Institutions Act that diminish the autonomy of the Central Bank by vesting authority in the Minister of Finance to take decisions, for example, on banking regulations, and to rule on appeals of Central Bank enforcement orders relative to sound banking practices. Moreover, the Central Bank Act also compromises the autonomy of the Central Bank because the objectives of the Central Bank and the priority to be given to these objectives are not clearly specified. Also, there are a number of provisions for decision making by the President of the Republic to the detriment of the autonomy of the Central Bank.

Compliance with the BCPs is relatively good in the areas of legal protection afforded to the Board and staff of banking supervision in carrying out their official duties, cooperating with other supervisors, and offsite supervision and contact with bank management. However, it is found lacking in most of the other core areas because of outdated legislation and lack of resources.

The mission found that improvements in banking supervision and greater compliance with the BCPs could be achieved in some areas without changes to the legal framework. However, as concerns fundamental issues such as the specification of the objectives of the Central Bank and operational independence of the Central Bank, greater compliance with the BCPs would require significant changes to the Financial Institutions Act and the Central Bank Act, both of which need modernizing.

The mission found moderate compliance with international standards for anti-money laundering. Anti-money laundering legislation became effective in 1996, and supporting guidance notes for banks and other financial institutions were issued by the Central Bank in March 1998. Provisions in the Guidance Notes are generally appropriate, but need to be updated to reflect recent developments in best AML/CFT practices. The authorities are currently considering updating the Guidance Notes or issuing a CBS directive in this area. Most banks provide internal guidance to employees and apply know-your-customer identification procedures for Seychellois customers, in accordance with the Guidance Notes. The mission recommended, however, that core provisions regarding customer identification and record keeping procedures be set out in the AML Act rather than in the Guidance Notes.

The mission found that there are no specific criminal provisions defining terrorism or terrorist financing and that such legislation needs to be drafted.

Although SIBA was established in 1994, there has so far been very limited offshore activity under its supervision. However, the registration of IBCs picked up substantially in the year to

June 2002. The mission found that greater scrutiny by SIBA is needed regarding ultimate beneficial owners for IBCs. Enhanced scrutiny as regards possible money laundering activities of IBCs is needed, as well as record keeping and identification of beneficial owners of IBCs by registered agents. These would help protect the reputation of Seychelles as it seeks to expand OFC activities in the future.

The mission surveyed the performance and supervision of the nonbank financial institutions. It found that effective supervision of the two insurance companies has lapsed following the demise of the former supervisor. However, both companies appear to be solvent and to have adequate profitability. The Development Bank (DBS) borrows in foreign currency from NGOs and multilateral organizations, and onlends in domestic currency. It has a positive return on equity, but performance is disappointing considering its tax-free status. Consideration should be given to subjecting DBS to the profits tax and to its eventual privatization. The Seychelles Credit Union (SCU) is a relatively small financial institution providing some bank-like services that has not been subject to active supervision. The mission recommends that CBS undertake an on-site examination of SCU within the next six months, and thereafter every other year. The Seychelles Housing Development Corporation (SHDC) accounts for one-third of the credit to the private sector in the form of subsidized lending for housing. The mission recommends making SHDC more efficient and greater targeting of housing subsidies.

I. OVERVIEW OF THE FINANCIAL SECTOR

Seychelles is a small island economy, located in the Indian Ocean, with a population of 81,000 inhabitants and GDP (2001) estimated at US\$570 million. The main economic activities are tourism, fishing, manufacturing, and agriculture. In the two decades to 1998, Seychelles achieved one of the highest standards of living in Africa, with an eight-fold increase in GDP per capita during that period. Beginning in 1999, growing macroeconomic imbalances made the economy less efficient and less competitive. Real GDP has declined significantly during the past three years.

Prominent among the policies of the government are a fixed exchange rate, foreign exchange restrictions and a foreign exchange allocation system, price controls, the monopoly of the Seychelles Marketing Board over the import and sale of key consumer goods, and large capital projects such as the East Coast Land Reclamation Program and subsidized public housing. Large external current account and fiscal deficits have been financed by substantial accumulation of both external debt in foreign currency and domestic government debt in local currency (including arrears), together equivalent to more than 200 percent of GDP at end 2001.

Operations of the financial system and its regulation in Seychelles must be seen in the macroeconomic context described above. In practice, the Central Bank works closely with the Ministry of Finance and with the Ministry of Planning (in charge of oversight of exchange controls) to see that the fiscal deficit is financed. At the same time, commercial bank activity consists mainly of intermediating government deposits and the purchase of government securities. The bulk of the total assets of the banking system were held in government securities or loans to the public sector at end-2001, with only 17 percent of assets in loans to the private sector.

A relaxation (October 2001) in the required local assets ratio (proportion of bank deposits that must be held in government securities) from 70 percent to 50 percent has had little practical benefit because banks were already holding well over 70 percent of their assets in these securities, and banks find it difficult to find new lending opportunities, whether in the commercial or private sector. Some available funds are finding their way into mortgages where the banks' lending criteria can be met. However, most borrowers enjoy an interest subsidy on their borrowings from the SHDC. For mortgage lending under a new Housing Loan Scheme, the Central Bank has directed that the first SR 150,000 must be lent at an interest rate no higher than 2 percentage points over the administered rate on savings deposits, currently at 3 percent, with 15-year term. For loans in excess of SR 150,000, the interest rate is freely negotiable.

In summary, the financial system in Seychelles is characterized by: (1) very limited bank lending to the private sector compared with other countries at a similar level of development; (2) the important role played by state-owned nonbank financial institutions; (3) excess liquidity in the banking system and limited demand for credit, in part caused by acute

shortage of foreign exchange and the decline in real GDP by more than 15 percent during 1999-2001; (4) banking management and banking supervision preoccupation with the foreign exchange problem, the extensive foreign exchange regulations, and the overall economic situation, rather than with the core banking business; (5) a lack of domestic private sector participation in the capital of financial institutions; (6) the absence of a level playing field between public and private institutions; and, despite the above, (7) a high level of bank profitability related to the margin between administered deposit and lending rates.

The domestic onshore financial sector in Seychelles comprises six commercial banks, a specialized development bank, a housing finance company, a credit union, and two insurance companies (Table 1). The banking sector is dominated by state and foreign institutions. Of the commercial banks, one (the Seychelles Savings Bank) is fully state-owned, another is majority state-owned (Nuovobanq, owned 78 percent by the state and 22 percent by Standard Chartered Bank of the UK), three others (Banque Française Commerciale, Habib Bank, and Bank of Baroda) are branches of foreign banks, headquartered respectively in Reunion, Pakistan, and India, and one (Barclays Bank) has recently converted from a foreign branch to a foreign subsidiary. The Development Bank of Seychelles is owned 55.5 percent by the government and the remainder by international institutions and a commercial bank. The Seychelles Housing Development Corporation is a parastatal and falls under the Ministry of Finance and the Ministry of Land Use and Habitat. One of the insurance companies is state-owned and the other is privately owned.

Table 1. Seychelles: Assets of the Financial System
(December 31, 2001, unless otherwise indicated)

Institutions	Total Assets		Credit to the Private Sector 1/	
	In millions of SR	Percent of total	In millions of SR	Percent of total
Commercial banks	4,910.2	80.9	677.6	47.6
Seychelles Housing Development Corp.	730.0	12.0	470.3	33.1
Development Bank of Seychelles	267.1	4.4	205.4	14.4
Insurance companies 2/	120.0	2.0	37.0	2.6
Seychelles Credit Union	42.3	0.7	32.3	2.3
Total	6,069.6	100.0	1,422.6	100.0

Source: CBS, DBS, SHDC, SCU, and Fund staff calculations and estimates.

1/ Total credit outstanding, net of provisions.

2/ Based on balance sheet data as of June 30, 2001 for H. Savy Insurance and as of December 31, 2001 for SACOS.

The main laws and regulations governing the financial sector are: the Central Bank of Seychelles Act of 1982, amended in 1986, 1999, and 2001; the Financial Institutions Act of 1984, amended in 1995; the Financial Institutions Domestic and Non-Domestic Banking

Business Regulations of 1996; the Insurance Act of 1994; the Seychelles International Business Authority Act, 1994; the Anti-Money Laundering Act of 1996, and the Guidance Notes on Anti-Money Laundering Procedures (March 1998).³

II. OFFSHORE FINANCIAL ACTIVITY

It is a strategy of the government to promote offshore financial services, although relatively little offshore activity as yet takes place. This may in part be related to unfavorable published perceptions during 2000 by the Financial Stability Forum (FSF) and the Financial Action Task Force on Money Laundering (FATF) about the quality of financial supervision. The FATF's main grievance was with the Economic Development Act (EDA), which Seychelles enacted in 1995 but never implemented. The act, which protected large investors from prosecution, was repealed on August 2, 2000. This action was endorsed by the FATF and resulted in its retracting an earlier warning that financial institutions exercise caution in dealing with individuals and companies domiciled in Seychelles.

A distinction is drawn in legislation and policy between domestic and nondomestic (i.e., offshore banking). The current licensing and regulatory framework for offshore banks is in some areas more lenient than for domestic banks, including in relation to the initial minimum capital requirement. So far, a number of applications to establish offshore banks have been rejected because they did not meet CBS's stated policy under which a prospective applicant must be a financial institution of international stature and reputation, and have an established track record of growth and profitable operation. CBS has, nonetheless, granted a temporary license to an offshore investment bank, whose applicants are not a financial institution. The investment bank has not yet been permitted to commence operations, pending further consideration of its business plan, and the enactment of enabling legislation for investment banking.

In its role as supervisor, SIBA is responsible for the licensing of Registered Agents and Trustees (i.e., those who set up and administer companies and trusts) and the registering of IBCs, trusts and companies registered within the Seychelles International Trade Zone. SIBA's other main role is in promoting the Seychelles as an offshore corporate and financial services center and an international trading hub. The mission sees the dual role as regulator and promoter of offshore services as a potential conflict of interest, and recommends the separation of these functions in the medium term.

Despite considerable marketing efforts and the approval of legislation for a range of nonbanking and offshore financial activity (including offshore banks, a securities industry act and a mutual fund act) offshore activity has been limited to IBCs, trusts, SITZ companies,

³A more comprehensive list of laws and regulations pertaining to the financial sector and to the anti-money laundering framework is contained in Appendix I.

and two offshore insurance companies, which appear to be dormant.⁴ (At present there are no listed securities, stock exchange, or mutual funds.) IBC and SITZ fees generated less than US\$700,000 in revenue during 2001, while additional government financing equivalent to US\$400,000 was extended to finance SIBA's activities. Nonetheless, SIBA is keen to expand offshore activities as a "third pillar" of economic activity.

SIBA has drawn up a plan under which all supervisory functions would be transferred to a new Financial Services Authority (FSA), other than that for banking which would remain with the Central Bank. SIBA itself would be subsumed in the new FSA. In many smaller jurisdictions a consolidation of supervisory agencies into a single entity can facilitate communication, concentrate expertise and make effective use of limited resources. However, in the Seychelles context, it would involve a very major commitment of expertise and resources, not presently available. Existing prudential expertise within the Seychelles rests principally with the Central Bank, which already is stretched to provide adequate supervision and regulation of the banking sector. Although a detailed assessment of the proposal is outside the immediate remit of the mission, the mission has reservations about attempting to establish a new umbrella supervisory agency or commission, on budgetary and expertise grounds. The Governor of the Central Bank indicated that he shared these concerns, and did not anticipate any move in this direction in the near future.

The mission recommends that SIBA:

- Introduce a regulatory regime for registered agents for companies and trusts, by December 31, 2002.
- Prepare revisions to IBC law to ensure that it meets best practice on disclosure and corporate governance standards by December 31, 2002.

III. SUMMARY OF ACTIVITY AND SUPERVISION OF NONBANK FINANCIAL INSTITUTIONS

The nonbank financial sector in the Seychelles consists of five institutions: a Government-owned and a private insurance company; a development bank (DBS) that is majority Government owned; a member-owned credit union (SCU), and a parastatal institution (SHDC) that is essentially an instrument of Government policy in the housing sector.

Insurance business is governed by the Insurance Act of 1994. While the Insurance Act calls for insurance companies to be regulated by the Ministry of Finance and Communications, there has been no supervision exercised during the past two years. However, the insurance companies are audited and do file balance sheets and income statements on an annual basis to

⁴ SIBA collects little information about IBCs, other than their names. Also companies are struck off the list if they fail to pay annual renewal fees.

the MOF. The Ministry is developing a plan to establish an independent Insurance Authority (outside CBS), chaired by an individual with expertise in insurance regulation. The two domestic insurance companies had pre-tax underwriting profits in the range of 15 to 18 percent of premium income in the year through June 30, 2001. Because of their limited size, the insurance companies rely heavily on re-insurance from overseas companies, which require premium payments in foreign currency. The mission recommends that Seychelles insurance companies be given priority to obtain foreign exchange to pay reinsurance premiums.

DBS has adequate capital and operates tax free. It recorded return on equity of around 6 percent in 2001, despite a relatively high level of NPLs. It would benefit from private sector representation on its Board and more flexibility in its loan pricing. It has borrowed at concessional rates in foreign currency from international NGOs and multilateral organizations, but onlends in domestic currency. Because it has limited access to foreign exchange, DBS is in arrears in its international debt servicing. DBS has the equity base to support domestic borrowing at market rates. Consideration should also be given to subjecting DBS to profits tax. Because of its borrowing in foreign currency, DBS would be vulnerable to a major depreciation in the exchange rate.

SCU is a member-owned cooperative institution with assets of about SR 40 million that provides limited savings banking services. As in the case of insurance companies, the Finance Ministry does not provide active supervision. SCU has relied heavily on its image as an easier place to borrow than commercial banks. It has had loan collection problems; its provisioning and accounting practices are suspect; and it will only be able to pay dividends to members of about 1.5 percent, based on 2001 performance. Also, about 12 percent of its loan portfolio is not serviced on a regular basis. The mission recommends that CBS undertake an onsite examination of SCU within the next six months, and thereafter every other year.

SHDC, whose activities are overseen by the Finance Ministry and the Ministry of Land Use and Habitat, provides a third of the credit to the private sector. Its liabilities are heavily subsidized by the Government. It is charged with implementing the government's housing policy, which has a major impact on resource allocation and income distribution in the Seychelles. The present system is complex and may provide subsidies where they are not warranted. At present the government is trying to encourage the commercial banks to take over some of the housing loans currently held by SHDC. The mission recommends greater transparency regarding goals and costs of SHDC, and better targeting of subsidies.

IV. SUMMARY OF ASSESSMENT UNDER THE BASEL CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

A. Banking Supervision in Seychelles

CBS is responsible for supervising banks, foreign exchange bureaus (one at present), and the securities market (although there is no local stock exchange). CBS expresses a keen

willingness to try and meet international standards of supervision and AML/CFT practice. The BCP assessment therefore reflects an urgent need to update current practices rather than a reluctance to move forward.

CBS' supervisory division (three supervisory and two administrative staff) are additionally involved in monitoring banks' compliance with exchange control regulations and in acting as the Financial Intelligence Unit (FIU). There is an urgent need to increase resources. Part of this should be achieved by separating implementation of exchange control from supervision. Supervision's interest on exchange control matters should be to ensure that banks have effective procedures in place and that they are acting properly. Spot checks solely related to exchange controls should be the responsibility of a dedicated exchange control unit liaising with supervision as necessary. Initially at least two additional supervisory staff are needed, with the potential to be trained for senior supervisory positions. In particular this is to increase CBS' capability to undertake more frequent off and on-site supervision.

The head of the Bank Supervision Division (BSD) is on contract to CBS from Government. Salaries of BSD staff may be 50 percent or more below that of the private sector. In fact, a number of CBS staff have been lost to the private sector recently. This does not foster a positive career structure for supervisory staff, with a pay environment that recognizes the value of their professional responsibility and expertise.

Although exchange controls are continuing to have the serious consequences already described, one side effect is that it makes international money laundering very difficult to conduct since flows cannot easily move in and out of the country. All currency exchange is supervised by CBS under regulations specifying the priorities. Offshore accounts can be freely accessed, although there are few of them. Banks say that they therefore do not find it difficult to monitor flows in the accounts.

The mission was informed by bank auditing firms that banks are audited using international accounting standards. Banks are required to publish their balance sheets in the Official Gazette.

The legal preconditions for banking supervision are contained in the Central Bank Act and the Financial Institutions Act and these generally provide for remedial actions by CBS against banks that do not comply with prudential regulations. They also provide for revocation of bank licenses by CBS and/or for CBS to take possession of banks under exceptional circumstances. However, CBS must give 30 days notice before revoking a bank license. It is recommended that the notice requirement be removed. Also stiffer penalties and greater use of corrective actions for noncompliance with regulations is recommended. There is no deposit insurance scheme.

Recommendations and action plan

There is an urgent need to revise the Central Bank of Seychelles Act and the Financial Institutions Act into modern pieces of legislation properly reflecting the functions and

responsibilities of an effective supervisory authority meeting international standards. The CBS needs to be given operating autonomy and to strengthen its supervisory functions.

Seychelles is proposing to expand its financial sector including through the attraction of offshore banking business. However, attracting offshore banking will require first putting in place a robust supervisory framework, since offshore entities will need to satisfy the requirements of their home supervisors. In particular, the present two-tier approach to domestic and nondomestic (offshore) banking operations, favoring the latter, is not in line with evolving best practice. The leading OFC's are moving toward uniformity and greater transparency and disclosure for offshore banks and financial services.

The fact that Seychelles is, overall, materially non-compliant under the BCP assessment means that serious attention must be paid to extending and enhancing the depth and scope of prudential supervisory practices and procedures. The parent supervisor of any foreign bank setting up in Seychelles will also first look to see the extent to which it can rely on effective supervision locally. Additional staff and resources are needed to achieve these goals.

Key recommendations relate to the independence and autonomy of CBS, the licensing criteria and ownership of banks, AML/CFT procedures, the capital adequacy requirements for non-domestic banks, an expansion of the off and on-site supervision process, an extension of the role of auditors, much tighter loan concentration limits and CBS guidance on determining loan quality.

Of additional concern is the fact that CBS undertakes no hands-on supervision of banks' liquidity positions. The Seychelles has no deposit insurance scheme and there are no formal arrangements to ensure banks' liquidity should a crisis arise. A liquidity crisis (or run on deposits) would be acutely felt in view of the amount of public savings held in the system, and CBS would need to provide immediate support. It is recommended that urgent attention is given to this matter.

The presence of extensive exchange controls and an overvalued exchange rate have a major effect on the way in which the banking system is operating. In case of changes to the present arrangements going forward, the banking system could quickly be exposed to new risks. Supervisors would need to be prepared with an immediate response.

It is suggested that CBS should consider a contingency plan, which at the first stage would address a number of scenarios and the immediate response. For example a more freely convertible SR could lead to the following:

- A short-term outflow of deposits: how would this affect the liquidity of banks?
- A sudden inflow of foreign currency deposits from those making new investment.
- Potential foreign exchange exposure for banks.
- Increased lending opportunities for banks, including cross-border.
- A heightened risk of money laundering.

The following is a summary of the key recommended actions to be taken by CBS:

- Achieve appropriate compliance with the Basel Core Principles as described below.
- Draft a new Financial Institutions Act and a new Central Bank Act by December 31, 2002.
- Seek parliamentary approval of a new Financial Institutions Act and a new Central Bank Act by June 30, 2003.
- Unify the regulatory and supervisory regimes for domestic and nondomestic (offshore) banking by June 30, 2003.
- Remedy identified shortcomings in AML/CFT legislation and guidance, as recommended below.
- Create a career path for developing existing experienced and new supervisory staff within CBS, redefine their responsibilities and expand resources by June 30, 2003.
- Prepare a contingency plan on what additional supervisory measures would be necessary in the event that there is a material change in the present arrangements for exchange control by December 31, 2002.

Authorities' response to the assessment

The Governor of the Central Bank and staff of the bank supervision division expressed appreciation for the assessments and the thorough and objective manner in which they were carried out. In the process of self-assessment, they had already recognized many of the weaknesses in banking legislation and banking supervision identified by the mission. They noted that banking legislation was outdated, having been put in place some twenty years earlier, and prior to the wide-ranging development of new products, banking services and best banking practices. They also recognized that there were important differences in the regulatory treatment of onshore and offshore banking, and they agreed with the mission's recommendation to establish parity of treatment in this area. In his budget speech for 2002, the Minister of Finance announced the government's intention to modernize the banking and central bank legislation. The authorities requested copies of model financial sector legislation and technical assistance to help draft a new Financial Institutions Act and a new Central Bank Act. The Governor will look into the feasibility of publishing draft bills in time for parliamentary consideration by the end of 2002. The authorities recognized the need to extend and enhance the frequency and depth of prudential supervisory practices and procedures. They intend to increase staffing of the bank supervision division so as to be able to carry out onsite inspections of banks at least every other year. They also recognize the need for increasing the use of external audits of banks in their own process of supervision and prudential regulation.

Table 2. Seychelles: Recommended Actions to Improve Compliance with the Basel Core Principles

Reference Principle	Recommended Action
1(1) & (3). An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks.	<p>The CBS Act needs to be updated to prioritize and be explicit about CBS' supervisory responsibilities.</p> <p>The FIA needs a major updating, so that CBS can have full operational independence and supervise under a modern piece of banking legislation complying with international standards.</p> <p>The distinction between domestic and non-domestic banks should be removed with the same high standards applying to all.</p> <p>Revisions to the FIA should include a removal of approvals of the Minister, a greater emphasis to the assessment of the fitness and propriety of those to be licensed and of their owners and management, powers for CBS to set higher standards of conduct in individual cases, and a wider responsibility for auditors.</p> <p>CBS's Annual Report for 2001 to be published as soon as possible</p>
1(2). Each such agency should possess operational independence and adequate resources.	<p>Where identified, references to the President and Minister should be removed in a redrafting of the CBS Act and FIA to give CBS full autonomy.</p> <p>Role of Supervision Division within CBS to be redefined and additional resources and a separate budget allocated to it.</p>
1(4). A suitable legal framework for banking supervision is also necessary, including powers to address compliance with laws, as well as safety and soundness concerns.	<p>The terms under which licenses may be revoked should be made more explicit including to the test of fitness and propriety, and the 30 days notice removed.</p>
1(5). A suitable legal framework for banking supervision is also necessary, including legal protection for supervisors.	<p>The CBS Act should be amended, or an addition made to the AML Act, to provide an indemnity for CBS in applying the AML Act.</p>
1(6). Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place	<p>Sections 38 and 38A to be amended specifically to provide for the sharing of information relating to all banks on the same terms, to include the provision of information to supervisory authorities, and to exclude a requirement for an agreement to be in place before information can be exchanged.</p>
2. Permissible activities	<p>The definitions of "bank" and "banking business" in the FIA to be significantly broadened to embrace those activities which banks typically undertake.</p>

Reference Principle	Recommended Action
3. Licensing criteria	<p>Section 3 of the 1996 Regulations must also require CBS to form a view on the fitness and propriety of the shareholders, as well as of directors and management.</p> <p>CBS should introduce its own suite of personal questionnaires designed to elicit all relevant information about a director or manager to focus the assessment process.</p> <p>There must be a provision for CBS to assess the adequacy of systems and controls and the viability of the business plan.</p> <p>CBS must admit only banks which meet its stated criteria of quality.</p>
4. Ownership	<p>The FIA to be amended so that CBS' prior approval must be obtained for any material (typically greater than or equal to 10 percent) shareholder or prospective material shareholder of a bank.</p>
5. Investment criteria	<p>CBS must require banks first to discuss with it any planned direct investment which falls within the statutory limit, and issue guidance on inappropriate types.</p>
6. Capital adequacy	<p>The Basel capital ratio should apply to all banks, including non-domestic.</p> <p>The Basel ratio might be supplemented by a gearing ratio in view of the special nature of banks' balance sheets.</p> <p>Loan classification and provisioning requirements to be set to ensure adequacy of provisions therefore no overstatement of capital.</p>
7. Credit policies	<p>Loan classification and provisioning requirements to be set by CBS.</p> <p>Inappropriate for CBS as supervisor to direct banks to lend on mortgages on prescribed terms.</p>
8. Loan evaluation and loss provisioning	<p>CBS to request submission of all banks' lending, arrears and provisioning policies.</p>
9. Large exposures	<p>Amend the FIA to reduce the size of permitted large exposures to an acceptable level (e.g., 25 percent of capital).</p>
10. Connected lending	<p>Connected lending should be defined and reported to CBS, and a limit included in the FIA.</p>
11. Country risk	<p>CBS to ensure that it is in a position to receive details of banks' country risk, and policy and exposure relating thereto.</p>
12. Market risks	<p>CBS to improve the reporting on and supervision of liquidity and establish a clear policy for banks to follow.</p>
13. Other risks	<p>CBS to consider banks' other risks, and to review their business contingency plans.</p>

Reference Principle	Recommended Action
14. Internal control and audit	<p>Section 30 of the FIA to be made explicit that CBS must be satisfied on the adequacy of all internal controls.</p> <p>CBS to require banks to submit copies of internal audit reports and external auditors' management letters. External auditors to perform compliance checks and verify that prudential returns have been correctly completed. The FIA to be amended to reflect this increased role of auditors.</p>
15. Money laundering	<p>The Guidance Notes are not as explicit or detailed as required by today's standards. AML Act and Guidance Notes need to be brought up-to-date as soon as possible, to include terrorism and a substantial increase in specified fines.</p> <p>Guidance Notes must be explicit that evidence of a lack of adequate policies and procedures in AML core areas will be treated as grounds for severe regulatory/enforcement action.</p> <p>CBS to elevate its concern to ensure that proper procedures are followed at all times. Banks to send copies of their AML procedures and policies for review. Much more frequent (e.g., at least annual) onsite visits should be conducted on each bank to verify compliance.</p> <p>CBS and police to arrange briefing and training sessions for the industry.</p> <p>CBS to suggest that the industry should comment on the FATF's draft review of its Recommendations.</p>
16. On and offsite supervision	<p>Additional resources needed substantially to intensify depth and scope of on and offsite supervision.</p> <p>Program of frequent supervision to be drawn up and risk-prioritized.</p>
17. Bank management contact	<p>To be enhanced through more onsite visits and offsite prudential discussions.</p>
18. Offsite supervision	<p>Depth and scope to be increased, especially as banks' activities broaden and new activities are undertaken.</p>
19. Validity of supervisory information	<p>System to be introduced for auditors to check accuracy of prudential returns</p>
20. Consolidated supervision	<p>The FIA to be amended so that limits and requirements can be applied on a consolidated as well as individual basis.</p>
21. Accounting standards	<p>Closer relationship with auditors to be developed as described for Principle 14.</p>
22. Remedial measures	<p>The FIA to be amended so that CBS can revoke a license without notice if required in depositors' interests.</p> <p>CBS to implement a strict regime for non-compliance with the regulations. Fines to be reviewed and imposed.</p>
23. Global Consolidated Supervision	<p>N/A</p>

Reference Principle	Recommended Action
24. Host country supervision	N/A
25. Supervision over foreign establishments	N/A

V. SUMMARY OF ASSESSMENT OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR AML/CFT AND IMPLEMENTATION IN THE BANKING SECTOR

A. Measures to Prevent Money Laundering and Terrorist Financing

The Seychelles adopted the Anti-Money Laundering Act (AML Act) in 1996, one of the first countries in the region to do so. The AML Act addresses, inter alia, the criminalization of money laundering, forfeiture of proceeds of crime, special police powers and suspicious transactions reporting. It also empowers the Central Bank of Seychelles (CBS) to determine identification and record keeping procedures for financial institutions. The obligation to file suspicious transaction reports extends to a broad range of entities such as financial institutions (banks, branches of foreign banks, foreign exchange bureaus) and other persons conducting activities as listed in the schedule attached to the AML Act (such as insurance companies, investment businesses, finance leasing companies, real estate businesses or casinos).

In 1998, the CBS issued Guidance Notes on anti-money laundering procedures. These legally non-binding Guidance Notes set out customer identification requirements and record keeping procedures. The Guidance Notes apply to financial institutions, but do not apply to those persons listed in the schedule attached to the AML Act. The Guidance Notes are quite specific regarding the identification requirements for resident customers opening individual accounts, and to a large extent, regarding corporate accounts by domestic companies, as well. However, the provisions concerning identification of non-resident individuals, non-resident companies, and IBCs, in particular, are not sufficient because of the heavy reliance placed on third party identification. In cases where an account is opened or a transaction is carried out for another person, the Guidance Notes stipulate that measures need to be taken to obtain information on the identity of such person. It is required that identification procedures be repeated when significant changes are observed and that wire transfer requests contain originator information.

The Guidance Notes establish satisfactory retention periods concerning customer identification documents and transaction records of financial institutions. The AML Act requires financial institutions and other persons, as specified, to report suspicious transactions without tipping-off the customer. Financial institutions must establish internal policies to prevent money laundering and are recommended to appoint a senior officer as compliance officer. Violations of obligations under the AML Act are sanctioned, but the penalties are relatively low.

Fit and proper tests are applied to managers, directors and significant shareholders of financial institutions in the licensing process, but subsequent changes do not require CBS approval. For the incorporation of domestic companies, several documents must be submitted to the company registry. The Company Registrar reviews the information submitted and, if deemed necessary, conducts background checks. The files at the company registry are available to the general public. The formation of not-for-profit organizations follows similar procedures, but regarding IBCs little information is publicly available.

Money laundering is criminalized in the AML Act and proceeds of crime are defined rather broadly. Money laundering is sanctioned by imprisonment for up to 15 years and/or imposition of a money penalty. There are no criminal provisions in place addressing terrorism, terrorist organizations or the financing of terrorism, but the authorities are currently considering the drafting of relevant legislation.

Assets used in the commission of a crime that are property of the offender may be forfeited upon conviction. In cases of money laundering, the courts may forfeit money or property constituting the proceeds of crime; all money and property in the possession of the person convicted of money laundering is deemed to have been derived from money laundering. Forfeiture of substitute assets is possible, but it is not clear whether this is also possible for assets of equivalent value. Assets may be temporarily seized as evidence, but the AML Act does not stipulate special provisions for temporary seizures.

The CBS carries out the functions of a financial intelligence unit in the Seychelles. Within the CBS, the Bank Supervision Division (comprising five staff members, including two support staff) is the responsible unit. The financial intelligence unit function not only extends to financial institutions but covers other entities such as insurance companies, investment businesses, finance leasing companies, real estate businesses, or casinos as well. Suspicious transaction reports must be submitted to the CBS. The CBS reviews incoming suspicious transaction reports to determine the presence of possible money laundering and, though not yet required under the law, also screens such reports for indications of terrorist financing. The CBS has access to information held in various registries. The CBS is not authorized to order a temporary freezing of transactions, but such order could be issued by a court. The CBS forwards information on suspected money laundering to the Commissioner of Police for further investigation and action. The CBS requests information from foreign regulatory authorities as needed and also responds to requests from foreign regulatory authorities, if necessary, in consultation with the Attorney-General. The CBS may enter into memoranda of understanding with foreign regulatory counterparts, but no memoranda of understanding have yet been signed. CBS staff is subject to confidentiality requirements.

The Republic of Seychelles acceded to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and has signed, but not yet ratified, the United Nations Convention Against Transnational Organized Crime (Palermo Convention) and the International Convention for the Suppression of the Financing of Terrorism. Ratification of both conventions is expected by the end of 2002. As provided for in the Constitution, it is possible to extradite a resident Seychelles' national. The

Attorney-General is responsible for mutual legal assistance matters related to the investigation or prosecution of money laundering.

There are currently six commercial banks and one foreign exchange bureau (but no money transfer/remittance companies) operating in the Seychelles. The CBS includes a review of customer identification procedures in its onsite inspections and treats compliance with anti-money laundering measures as an integral part of checking that a bank is operating in a prudent manner. In general, the banks apply adequate customer identification requirements regarding individual accounts by residents. However, procedures applied to other types of accounts need improvement.

Recommendations and action plan

The following actions are recommended to improve the legal and institutional framework and to strengthen the implementation of AML/CFT measures in the banking sector:

The AML Act should be amended in a number of areas. Foremost, provisions on customer identification and record keeping procedures should be established in the AML Act rather than in non-binding Guidance Notes. The customer identification requirements regarding non-resident individuals and non-resident companies, as well as regarding IBCs, should be strengthened. It should be emphasized in the law that suspicious transaction reports must be submitted promptly without undue delay, and that reporting entities and their staff are afforded legal protection when submitting suspicious transaction reports in good faith. The maximum penalties for noncompliance with specific reporting and other obligations imposed under the AML Act should be increased. The authorities should consider the possibility to grant explicit authority to the CBS to impose administrative fines directly under the constitutional framework. Internal controls should be extended to also address terrorist financing issues, and the AML Act should be amended to require the appointment of a compliance officer.

In order to ensure high standards of integrity in the financial and corporate sector, the FIA and the AML Act should be amended to provide for CBS approval of any subsequent changes in management, directors and significant shareholders. With regard to other persons, the authorities may consider to establish fit and proper standards in the AML Act. The Company Registrar should intensify background checks for managers, directors and shareholders in domestic companies. Regarding IBCs, SIBA should increase its level of oversight and carry out plans to strengthen the licensing of registered agents and trustees.

Legislation criminalizing terrorism, terrorist organizations and terrorist financing should be adopted as soon as possible, and by December 31, 2002 at the latest. Such provisions could be incorporated in existing legislation or established in a separate law as currently envisaged by the AG. The AML Act should be amended to stipulate the loss of authority to do business as one of the sanctions for money laundering. The authorities should continue their efforts to ratify the International Convention for the Suppression of the Financing of Terrorism and the Palermo Convention as soon as possible, and by December 31, 2002 at the latest.

The legal provisions on forfeiture should be amended to explicitly provide for the forfeiture of substitute assets obtained with funds that were partly proceeds of crime and partly legitimate resources, and for the forfeiture of assets of equivalent value. The provisions should also be clarified regarding the forfeiture of any income or gains received on proceeds of crime. The AML Act should be amended to permit the temporary seizure of assets.

Concerning the institutional arrangements, the Central Bank Act should be amended to clearly set out that the CBS may exercise the function of a financial intelligence unit in the Seychelles. The AML Act should be further amended to provide for an effective mechanism to freeze suspicious transactions and CBS staff should be protected by granting explicit personal legal protection when carrying out their official duties. One additional staff experienced in AML/CFT issues should be allocated to AML/CFT issues. The flow of information between the various government entities involved in the AML/CFT effort should be improved and a forum to combine the financial expertise of CBS staff with the investigative knowledge of the police force should be put in place. The powers of CBS to receive and disseminate information should be specified in law.

Regarding the implementation of AML/CFT measures in the banking sector, the CBS should carry out onsite inspections focusing on AML/CFT issues and intensify training sessions on recent best practices regarding AML/CFT issues. Banks should be required to submit their AML/CFT internal guidelines to CBS for review, and CBS should regularly provide updated guidance on identifying suspicious transactions. Banks should increase their focus on identifying the ultimate beneficial owners of funds and rigorous customer identification procedures for IBCs need to be put in place. The CBS should issue special guidance regarding private banking activities and higher risk customers, such as politically exposed persons, and issue guidance to banks alerting them to the need to consolidate customer accounts for monitoring and suspicious transaction reporting purposes. The procedures for cooperation and exchange of information with central banks and foreign regulatory authorities should be enhanced and formalized. The reviews of the CBS concerning fit and proper requirements for managers, directors and significant shareholders should be strengthened.

Table 3. Seychelles: Recommended Actions to Strengthen AML/CFT Measures

AML/CFT Requirements	Recommended Action
Part 1: Suggested actions for the legal and institutional framework	
Customer due diligence	The AML Act should be amended to provide that core provisions on customer identification procedures are set out in the AML Act rather than in the Guidance Notes; The customer identification requirements regarding non-resident individuals and non-resident companies, as well as regarding IBCs, should be strengthened.
Record keeping	The AML Act should be amended to provide that core provisions on record keeping procedures are set out in the AML Act rather than in the Guidance Notes.
Suspicious transactions reporting	The AML Act should be amended to emphasize that suspicious transaction reports must be submitted promptly (without undue delay), and to provide for an explicit confidentiality waiver and legal protection to reporting entities and their staff when submitting suspicious transaction reports in good faith.
AML/CFT internal controls	Internal controls should be extended to include terrorist financing issues; The AML Act should be amended to require the appointment of a compliance officer.
Sanctions	The AML Act should be amended to increase the maximum penalties for noncompliance with specific reporting and other obligations imposed under the AML Act; The authorities should consider the possibility to grant explicit authority to the CBS to impose administrative fines directly.
Integrity standards	The FIA and AML Act should be amended to require CBS approval of any subsequent changes in management, directors and significant shareholders; With regard to other persons, the authorities may consider to establish fit and proper standards in the AML Act; The Company Registrar should intensify background checks for managers, directors and shareholders of domestic companies; SIBA should increase the level of oversight for IBCs and for licensing registered agents and trustees.
Criminalization of money laundering and terrorism financing	Legislation criminalizing terrorism, terrorist organizations and terrorist financing should be adopted as soon as possible, and by December 31, 2002 at the latest; The AML Act should be amended to stipulate the loss of authority to do business as one of the sanctions for money laundering; The International Convention for the Suppression of the Financing of Terrorism and the Palermo Convention should be ratified as soon as possible, and by December 31, 2002 at the latest.
Confiscation of proceeds of crime or assets	The legal provisions on forfeiture should be amended to explicitly provide for the forfeiture of substitute assets obtained with funds that were partly proceeds of crime and partly legitimate resources, and for the forfeiture of assets of equivalent value. The provisions should also be clarified regarding the forfeiture of any income or gains received on proceeds of crime; The AML Act should be amended to permit the temporary seizure of assets.

AML/CFT Requirements	Recommended Action
Process for receiving, analyzing, and disseminating disclosures of financial information and intelligence	The Central Bank Act should be amended to clearly set out that the CBS may exercise the function of a financial intelligence unit in the Seychelles; The AML Act should be amended to provide for an effective mechanism to freeze suspicious transactions; CBS staff should be protected by granting explicit personal legal protection when carrying out their official duties; One additional staff experienced in AML/CFT issues should be allocated to AML/CFT issues by December 31, 2002; The flow of information between the various government entities involved in the AML/CFT effort should be improved and a forum to combine the financial expertise of CBS staff with the investigative knowledge of the police force should be put in place.
International cooperation in AML/CFT matters	The powers of the CBS to receive and disseminate information should be specified in law.
Part 2: Suggested actions for the banking sector	
Organizational and administrative arrangements	CBS should carry out onsite inspections focusing on AML/CFT issues; Banks should be required to submit their AML/CFT internal guidelines to CBS for review; CBS should intensify training sessions and emphasize recent best practices regarding AML/CFT issues and regularly provide updated guidance on identifying suspicious transactions.
Customer identification and due diligence	Banks should increase their focus on identifying the ultimate beneficial owners of funds; Rigorous customer identification procedures for IBCs need to be put in place; CBS should issue special guidance regarding private banking activities and higher risk customers, such as politically exposed persons.
Monitoring and reporting suspicious transactions	CBS should issue guidance to banks alerting them to the need to consolidate customer accounts for monitoring and suspicious transaction reporting purposes.
Record keeping, compliance and audit	CBS should ensure that all banks appoint a compliance officer.
Cooperation between supervisors/regulators and competent authorities	The procedures for cooperation and exchange of information with central banks and foreign regulatory authorities should be enhanced and formalized.
Licensing and authorizations	The reviews of CBS concerning fit and proper requirements for managers, directors and significant shareholders should be strengthened.

Authorities' response to the assessment

Seychelles is committed to bringing its regulatory and supervisory regime into compliance with international banking and anti-money laundering and combating terrorist financing standards. The recommendations of the IMF OFC Module 2 assessment team will be studied carefully and either incorporated into proposed legislative changes to be presented to the National Assembly for approval or into regulations for implementation, whichever is appropriate. We note, however, that Seychelles is a small country with limited resources and expertise. We are requesting technical assistance to help us in implementing the recommendations regarding banking regulation and supervision and anti-money laundering and combating terrorist financing.

VI. TECHNICAL ASSISTANCE NEEDS

In April 2002, a multi-donor initiative was launched, aimed at promoting robust and diverse financial sectors in developing countries. The Financial Sector Reform and Strengthening (FIRST) Initiative is expected to complement and support other donor activities in strengthening national financial sectors through highly targeted, responsive projects proposed to it by developing countries and their advisors. FIRST is an international initiative jointly undertaken by the World Bank, the IMF and national development agencies—the U.K. Department for International Development (DFID), the Canadian International Development Agency (CIDA), and the State Secretariat for Economic Affairs of Switzerland (SECO). It is expected that FIRST may be used to help provide technical assistance in countries that have undergone assessments under the Financial Sector Assessment Program (FSAP) and under the Offshore Financial Center (OFC) initiative, such as the present OFC Module 2 Assessment for Seychelles.

A. Banking Sector Needs

Based on its findings and priorities identified by the authorities, the mission recommends technical assistance to assist the authorities in drafting an entirely new Financial Institutions Act and an entirely new Central Bank Act. Both acts have been found to be in need of such substantial modernization that amendments to them would be insufficient to resolve many weaknesses. It is suggested that the Fund's Legal and Monetary and Exchange Affairs Departments transmit model laws for financial institutions and the central bank, respectively, by September 2002. The Fund will consider providing technical assistance as a team consisting of LEG and MAE staff and possibly an expert consultant from outside the Fund.

Among other features, the new Central Bank Act would need to more clearly specify the objectives of the Central Bank and the priority to be given to those objectives; should include the prevention of financial crime as one of those objectives; and would need to establish the autonomy of the Central Bank in pursuing those objectives. It should also provide for CBS guidance on determining loan quality and provisioning. The new Financial Institutions Act should, *inter alia*, strengthen the autonomy of the Central Bank by removing numerous references to authority for the Ministry of Finance to take decisions on banking regulations, and to rule on appeals of Central Bank enforcement orders relative to sound banking practices. In addition, the FIA should establish identical supervisory and regulatory arrangements for domestic and offshore banking. Also the licensing criteria for bank managers and shareholders need to be strengthened; much tighter loan concentration limits should be established; and the role of auditors in assuring that banks meet prudential requirements should be increased. Moreover, the FIA should provide for the CBS to give instructions to banks on rules for loan classification and provisioning.

In addition to the drafting of new central bank and banking legislation, the authorities are interested in a multi-topic MAE technical mission. This mission could help support a move

to indirect instruments of monetary control. This would need to be accompanied by a relaxation of administered interest rates to allow for positive real rates, a further decline in the local asset rate and overhaul of the rediscount and standing facilities. Liquidity management operations would also need to be expanded through the securitization of a substantial amount of CBS advances to the government. A multi-topic MAE technical assistance mission could also help the Central Bank address the need for measures to provide emergency liquidity support and lender-of-last resort facilities to banks in case of external shocks and to consider the options for a limited deposit insurance scheme.

B. Technical Assistance Needs in AML/CFT

Based on its findings and priorities identified by the authorities, the mission recommends technical assistance to assist the authorities in drafting and amending legislation in the area of AML/CFT. Currently, issues related to combating the financing of terrorism are not properly addressed by the legal framework, and drafting new legislation criminalizing terrorism, terrorist organizations and terrorist financing should take priority (in line with the anticipated ratification of the International Convention for the Suppression of the Financing of Terrorism and the United Nations Convention Against Transnational Organized Crime).

In the area of anti-money laundering, the AML Act needs to be amended in a number of areas, such as by establishing customer identification and record keeping requirements in the law, providing for prompt submission of suspicious transaction reports and an effective mechanism to freeze suspicious transactions. Furthermore, an explicit provision on personal liability protection for actions carried out in good faith in the course of official action is necessary for CBS staff in the financial intelligence unit function. The penalty scheme in the AML Act for specific reporting and other obligations requires an overhaul.

In an effort to improve supervisory powers, including the oversight on AML/CFT issues, the fit and proper requirements applying to managers, directors and shareholders of financial institutions under the FIA need to be strengthened, which could be further discussed in the context of technical assistance for a new banking law.

LIST OF LAWS AND REGULATIONS PERTAINING TO THE FINANCIAL SECTOR, FINANCIAL SECTOR REGULATION, AND ANTI-MONEY LAUNDERING FRAMEWORK

Anti-Money Laundering Act, 1996 (Act 8 of 1996)
Byelaws of Seychelles Credit Union
Central Bank of Seychelles Act, 1982, as amended in 1986
Central Bank of Seychelles (Amendment) Act, 1999 (Act 11 of 1999)
Central Bank of Seychelles (Amendment) Act, 2001 (Act 5 of 2001)
Civil Code of Seychelles Act, 1976
Co-operatives Act, 1987
Criminal Procedure Code, 1955
Economic Development Act, 1995 (Act 20 of 1995)
Economic Development (Repeal) Act, 2000 (Act 9 of 2000)
Extradition Act, 1991
Financial Institutions Act, 1984, as amended in 1995
Financial Institutions (Domestic Banking Business) Regulations, 1996
Financial Institutions (Non-Domestic Banking Business) Regulations, 1996
Financial Institutions (Bureau de Change) Regulations, 1997
Guidance Notes on Anti-Money Laundering Procedures for Seychelles Banks and other
Financial Institutions, issued by Central Bank of Seychelles, March 1998
Guidance Notes for Banks: Minimum Capital Adequacy Requirements in Seychelles,
May 1999
International Trust Act 1994 (Act 26 of 1994)
International Trust (Amendment) Act 2000 (Act 6 of 2000)
Insurance Act 1994
Insurance (Amendment) Act 1995 (Act No. 24 of 1995)
International Business Companies Act 1994, as amended in 1995, 1997, and 2000
International Trade Zone Act 1995 (Act 8 of 1995)
Misuse of Drugs Act, 1990
Mutual Assistance in Criminal Matters Act, 1995
Mutual Fund Act, 1997 (Act No. 13 of 1997)
Mutual Fund Act, 1998 Mutual Fund (Structure and Operations) Regulations, 1998
Penal Code, 1955
Securities Industry Act, 1995 (Act 22 of 1995)
Seychelles International Business Authority Act, 1994

AUTHORITIES’ RESPONSE TO ACTION PLANS

The Government of the Seychelles provided the Monetary and Financial Systems Department (MFD) of the IMF with letters and tables outlining the steps it has taken to address both the general and specific recommendations of the report. The authorities are in the process of incorporating comments received from interested parties on the draft banking and central bank legislation. Once this has been done, they indicate that the necessary approvals to have the bills enacted will be sought.

A. Authorities’ Detailed Updated Response to BCP Assessment

Following is the detailed response, arranged by Basel Core Principle (with gray background), associated recommended actions, and CBS’ comments.

Table 4. Seychelles: BCP Action Plan and Authorities’ Response

SECTION 1	PRECONDITIONS FOR EFFECTIVE BANKING SUPERVISION
Principle 1(1) & (3)	An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks.
Recommended Actions	<p>The CBS Act needs to be updated to prioritize and be explicit about CBS’ supervisory responsibilities. CBS’ Comment: <i>Redrafted by IMF. Anticipate that proposed legislation will be in place by end 2004.</i></p> <p>The FIA needs major updating, so that CBS can have full operational independence and supervise under a modern piece of banking legislation complying with international standards. CBS’ Comment: <i>Redrafted by IMF. Anticipate that proposed legislation will be in place by end 2004.</i></p> <p>The distinction between domestic and non-domestic banks should be removed with the same high standards applying to all. CBS’ Comment: <i>drafted FI legislation reflects this.</i></p> <p>Revisions to the FIA should include a removal of approvals of the Minister, . . . CBS’ Comment: <i>Minister’s approval deleted from sections: 3(3) granting of licenses; 9(2) setting of annual licence fees; 40(2) appeals; 56(1) regulations; and section 58 removes the vested authority of the President to declare a person as a financial institution.</i></p> <p>. . . a greater emphasis to the assessment of the fitness and propriety of those to be licensed and of their owners and management, powers for CBS to set higher standards of conduct in individual cases, CBS’ Comment: <i>redrafted act section 5(c) character and <u>professional</u></i></p>

	<p><i>experience may apply followed by CBS' own internal set of questions. Also section 32(1) may apply as a means of meeting the "fit and proper test" which includes integrity, competency and financial soundness.</i></p> <p>...and a wider responsibility for auditors. CBS' Comment: <i>redrafted section 28 (10) will apply.</i></p>
Principle 1 (2)	Each such agency should possess operational independence and adequate resources.
Recommended Action	<p>Where identified, references to the President and Minister should be removed in a redrafting of the CBS Act and FIA to give CBS full autonomy. CBS' Comment: <i>reflected in some areas of the new drafts.</i></p> <p>Role of Supervision Division within CBS to be redefined and additional resources . . . CBS' Comment: <i>management and control of foreign exchange issues have been removed from the division and transferred to a Banking Control Unit and is now the responsibility of the Banking Controller, although DGBS does oversee the unit--focus of the division is now more on regulatory and supervisory issues. Two additional staff have joined the division making it a total of 4 officers --1 senior and 3 juniors.</i></p> <p>...and a separate budget allocated to it. CBS' Comment: <i>may not be practical given the size of the Bank. Centralized budget as is the current case is the preferred option.</i></p>
Principle 1(4)	A suitable legal framework for banking supervision is also necessary, including powers to address compliance with laws, as well as safety and soundness concerns.
Recommended Action	<p>The terms under which licenses may be revoked should be made more explicit including to the test of fitness and propriety, . . . CBS' Comment: <i>section 5(1)c refer to character and professional experience which could well apply.</i></p> <p>...and the 30 days notice removed. CBS' Comment: <i>deleted from section 12(5) of the existing FIA.</i></p>
Principle 1(5)	A suitable legal framework for banking supervision is also necessary, including legal protection for supervisors.
	<p>The CBS Act should be amended, or an addition made to the AML Act, to provide an indemnity for CBS in applying the AML Act. CBS' Comment: <i>To be covered in the amendment to the AML Act.</i></p>
Principle 1(6)	Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.
Recommended Action	<p>Sections 38 and 38A to be amended specifically to provide for the sharing of information relating to all banks on the same terms, to include the provision of information to supervisory authorities, and to exclude a requirement for an agreement to be in place before information can be exempted can be exchanged. CBS' Comment: <i>revised to reflect this in draft sections 38A and 38B</i></p>

SECTION 2	LICENSING AND STRUCTURE
Principle 2 Permissible Activities	The permissible activities of institutions that are licensed and are subject to supervision as banks must be clearly defined and the use of the word “bank” in names should be controlled as far as possible.
Recommended Action	The definitions of “bank” and “banking business” in the FIA to be significantly broadened to embrace those activities which banks typically undertake. CBS’ Comment: <i>expanded in draft section 3A.</i>
Principle 3 Licensing Criteria	The licensing authority must have the right to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the banking organisation’s ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital base, where the proposed owner or parent organisation is a foreign bank, prior consent of its home country supervisor should be obtained.
Recommended Action	Section 3 of the 1996 Regulations must also require CBS to form a view on the fitness and propriety of the shareholders, as well as of directors and management. CBS’ Comment: <i>Draft sections 5(1)c and 32 (1) apply but not for owners-- to extend the draft law to include owners.</i> CBS should introduce its own suite of personal questionnaires designed to elicit all relevant information about a director or manager to focus the assessment process. CBS’ Comment: <i>Under review.</i> There must be a provision for CBS to assess the adequacy of systems and controls and the viability of the business plan. CBS’ Comment: <i>Covered under draft section 4 (1)(h).</i> CBS must admit only banks which meet its stated criteria of quality.
Principle 4 Ownership	Banking supervisors must have the authority to review and reject any proposals to transfer significant ownership or controlling interests in existing banks to other parties.
Recommended Action	The FIA to be amended so that CBS’s approval must be obtained for any material (typically greater than or equal to 10 percent) shareholder or prospective material shareholder of a bank. CBS’ Comment: <i>Covered under draft section 35.</i>
Principle 5 Investment Criteria	Banking supervisors must have the authority to establish criteria for reviewing major acquisitions or investments by a bank and ensuring that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.
Recommended Action	CBS must require banks first to discuss with it any planned direct investment which falls within the statutory limit, and issue guidance on inappropriate types. CBS’ Comment: <i>Covered in draft section 35.</i>

SECTION 3	PRUDENTIAL REGULATIONS AND REQUIREMENTS
Principal 6 Capital Adequacy	Banking supervisors must set minimum capital adequacy requirements for banks, that reflect the risks that the bank undertakes, and must define the components of capital, bearing in mind its ability to absorb losses. The requirements must not be less than those established by the Basel Capital Accord.
Recommended Action	<p>The Basel capital ratio should apply to all banks, including non-domestic. CBS' Comment: Covered in draft section 20 (4) and (5).</p> <p>The Basel ratio might be supplemented by a gearing ratio in view of the special nature of banks' balance sheets. CBS' Comment: Draft Section 26A refers to powers of CBS to issue regulations on prudential matters and CBS could make use of such powers if it believes that there is a need to introduce a gearing ratio.</p> <p>Loan classification and provisioning requirements to be set to ensure adequacy of provisions therefore no overstatement of capital. CBS' Comment: Covered in draft section 23A.</p>
Principle 7 Credit Policies	An essential part of any supervisory system is the independent evaluation of a bank's policies, practices and procedures related to the granting of loans and making of investments and the ongoing management of the loan and investment portfolios.
Recommended Action	<p>Loan classification and provisioning requirements to be set by CBS. CBS' Comment: Covered in draft section 23A.</p> <p>Inappropriate for CBS as supervisor to direct banks to lend on mortgages on prescribed terms. CBS' Comment: This may be the case, however, it was a policy decision taken by the government in consultation with the banks.</p>
Principle 8 Loan Evaluation and Loss Provisioning	Banking supervisors must be satisfied that banks establish and adhere to adequate policies, practices, and procedures for evaluating the quality of assets and the adequacy of loan-loss provisioning.
Recommended Action	<p>CBS to request submission of all banks' lending, arrears and provisioning policies. CBS' Comment: This has begun since 2003 during on-site examinations carried out by CBS</p>
Principle 9 Large Exposure Limits	Banking supervisors must be satisfied that banks have management information systems that enable management to identify concentrations within the portfolio, and supervisors must set prudential limits to restrict bank exposures to single borrowers or group of related borrowers.
Recommended Action	<p>Amend the FIA to reduce the size of permitted large exposures to an acceptable level (e.g., 25 percent of capital). CBS' Comment: Covered under draft section 24; however, being looked at as some banks may become adversely affected by this section.</p>
Principle 10 Connected Lending	In order to prevent abuses from connected lending, banking supervisors must have in place requirements that banks' lend on an arms length basis, that such extensions are carefully monitored and the appropriate steps are taken to

	mitigate the risks.
Recommended Action	Connected lending should be defined and reported to CBS and a limit included in the FIA. CBS' Comment: Draft defines connected lending and this is further expanded in section 25.
Principle 11 Country Risk	Banking supervisors must be satisfied that banks have adequate policies and procedures for identifying, monitoring and controlling country risk and transfer risk in their international lending and investment policies, and for maintaining appropriate reserves against such risks.
Recommended Action	CBS to ensure that it is in a position to receive details of banks' country risk, and policy and exposure relating thereto. CBS' Comment: Being reviewed during on-site examinations. Of the six banks, five have been examined since 2003 and pose no major problem in this area since their lending portfolio is mostly in domestic currency to residents.
Principle 12 Market Risk	Banking supervisors must be satisfied that banks have in place systems that accurately measure, monitor, and adequately control market risks; supervisors should have powers to impose specific limits and/or specific capital charge on market risk exposure, if warranted.
Recommended Action	CBS to improve the reporting on and supervision of liquidity and establish a clear policy for banks to follow. CBS' Comment: The maturity profile return has been revised and clear instructions issued to the banks. Moreover during on-site examinations the bank's liquidity policy and contingency plan are evaluated--this has been done for five of the six banks.
Principle 13 Other Risks	Banking supervisors must be satisfied that banks have in place a comprehensive risk management process (including appropriate Board and senior management oversight) to identify, measure, monitor and control all other material risks and where appropriate, to hold capital against these risks.
Recommended Action	CBS to consider banks' other risks, and to review their business contingency plans. CBS' Comment: Of the six banks, five have been examined since 2003, and their other risks and business contingency plans reviewed.
Principle 14 Internal Control and Audit	Banking supervisors must determine that banks have in place internal controls that are adequate for the nature and scale of their business. These should include clear arrangements for delegating authority and responsibility, separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities, reconciliation of these processes, safeguarding its assets, and appropriate independent internal or external audit and compliance functions to test adherence to these controls, as well as applicable laws and regulations.
Recommended Action	Section 30 of the FIA to be made explicit that CBS must be satisfied on the adequacy of all internal controls. CBS' Comment: The adequacy of all internal controls for the banks is being reviewed. This has already been done for five of the six banks, with the sixth bank due for an examination in the second half of 2004. CBS to require banks to submit copies of internal audit reports

	<p>CBS' Comment: May request for such reports under draft section 30 (e).</p> <p>and external auditors' management letters.</p> <p>CBS' Comment: May request for such letters under draft section 28 (10)(a).</p> <p>External auditors to perform compliance checks and verify that prudential returns have been correctly completed.</p> <p>CBS' Comment: The draft FIA is to be further amended to shift the onus onto the banks so that the draft will read something to the effect that "each bank is required to obtain an outside qualified opinion..." in these issues. However during on-site visits the examiners do carry out compliance checks and verify that the returns have been correctly completed.</p>
<p>Principle 15 Money Laundering</p>	<p>Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict "know your customer" rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.</p>
<p>Recommended Action</p>	<p>The Guidance Notes are not as explicit or detailed as required by today's standards. AML Act and Guidance Notes need to be brought up-to-date as soon as possible, to include terrorism and a substantial increase in specified fines.</p> <p>CBS' Comment: A new law called the Prevention for Terrorism Act was passed in June 2004.</p> <p>Guidance Notes must be explicit that evidence of a lack of adequate policies and procedures in AML core areas will be treated as grounds for severe regulatory/enforcement action.</p> <p>CBS' Comment: Will be reviewed in line with AML amendments.</p> <p>CBS to elevate its concern to ensure that proper procedures are followed at all times. Banks to send copies of their AML procedures and policies for review. Much more frequent (e.g., at least annual) onsite visits should be conducted on each bank to verify compliance.</p> <p>CBS' Comment: Of the six banks, five have been examined so far and the reports produced cover the area of AML procedures and policies. The sixth bank is due to be examined in the second half of 2004.</p> <p>CBS and police to arrange briefing and training sessions for the industry.</p> <p>CBS' Comment: Since the start of 2004, CBS has begun providing training for staff of the banks including the Seychelles Credit Union. The PowerPoint presentation is broad covering both AML and CTF issues.</p> <p>CBS to suggest that the industry should comment on the FATF's draft review of its recommendations.</p>

SECTION 4	METHODS OF ONGOING BANKING SUPERVISION
Principle 16 On-Site and Off-Site Supervision	An effective banking supervisory system should consist of some form of both on-site and off-site supervision.
	<p>Additional resources needed substantially to intensify depth and scope of on and offsite supervision. CBS' Comment: <i>Staff complement increased by two so that there are now four Bank Supervision Officers--one senior and three juniors where the latter are being given appropriate training.</i></p> <p>Program of frequent supervision to be drawn up and risk-prioritized. CBS' Comment: <i>Program has been drawn up so that at least once every two years a bank is examined although if a bank has serious problems then the examination will be done at least once every year or more frequently depending on the severity of the problems.</i></p>
Principle 17 Bank Management Contact	Banking supervisors must have regular contact with bank management and a thorough understanding of the institution's operations.
Recommended Action	<p>To be enhanced through more onsite visits and offsite prudential discussions. CBS' Comment: <i>Each officer has been assigned two financial institutions under their responsibility to ensure that a relationship is built and maintained between the bank and the central bank.</i></p>
Principle 18 Off-site Supervision	Banking supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a solo and consolidated basis.
Recommended Action	<p>Depth and scope to be increased, especially as banks' activities broaden and new activities are undertaken. CBS' Comment: <i>With the increase in staff within the division, analysis of prudential reports and statistical returns is now being carried out with quarterly reports being produced and discussed with the divisional head and other officers of the division.</i></p>
Principle 19 Validation of Supervisory Information	Banking supervisors must have a means of independent validation of supervisory information either through on-site examinations or use of external auditors.
Recommended Action	<p>System to be introduced for auditors to check accuracy of prudential returns. CBS' Comment: <i>This is currently being done during on-site examinations which have begun since 2003 but the draft Section 28(10) (b) can also apply for auditors to check the accuracy of the returns.</i></p>
Principle 20 Consolidated Supervision	An essential element of banking supervision is the ability of supervisors to supervise the banking group on a consolidated basis.
Recommended Action	<p>The FIA to be amended so that limits and requirements can be applied on a consolidated as well as individual basis. CBS' Comment: <i>A provision to be included in the draft FIA.</i></p>

Principle 21 Accounting Standards	Banking supervisors must be satisfied that each bank maintains adequate records drawn up in accordance with consistent account policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business, and that the bank publishes on a regular basis financial statements that fairly reflect its condition.
Recommended Action	Closer relationship with auditors to be developed as described for Principle 14. CBS' Comment: Covered under draft section 28.
SECTION 5	FORMAL POWERS OF SUPERVISORS
Principle 22 Remedial Measures	Banking supervisors must have at their disposal adequate supervisory measures to bring about timely corrective action when banks fail to meet prudential requirements (such as minimum capital adequacy ratios), when there are regulatory violations, or where depositors are threatened in any other way. In extreme circumstances, this should include the ability to revoke the banking license or recommend its revocation.
Recommended Action	The FIA to be amended so that CBS can revoke a license without notice if required in depositors' interests. CBS' Comment: Reflected under draft Section 12. CBS to implement a strict regime for non-compliance with the regulations. Fines to be reviewed and imposed. CBS' Comment: Draft Part VI A--Offences and Penalties under review.
Principle 23 Globally Consolidated Supervision	Banking supervisors must practice global supervision over their internationally active banking organisations, adequately monitoring and applying appropriate prudential norms to all aspects of the business conducted by these banking organizations world-wide, primarily at their foreign branches, joint ventures and subsidiaries.
Recommended Action	N/A
Principle 24 Host Supervision	A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved primarily host country supervisory authorities.
Recommended Action	N/A
Principle 25 Supervision over Foreign Bank's Establishments	Banking supervisors must require the local operations of foreign banks to be conducted with the same standards as are required of domestic institutions and must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision.
Recommended Action	N/A

B. Action Plan on Anti-Money Laundering and Combating the Financing of Terrorism

Seychelles is committed to strengthen its legal framework and supervisory regime in line with international standards on anti-money laundering and combating the financing of terrorism. In order to build the legal basis for effectively combating the financing of terrorism, we have recently prepared and published a bill on Prevention of Terrorism for discussion and approval by our Parliament. In particular, the Prevention of Terrorism Bill criminalizes the financing of terrorism with extra-territorial application as envisioned by the 1999 International Convention for the Suppression of the Financing of Terrorism and provides for the mechanism and authority to gather information to deter terrorist activities.

In the area of anti-money laundering, we plan to amend the existing legislation. We are taking into consideration the recommendations and draft legislation prepared by IMF staff based on the revised FATF 40 Recommendations and the Special 8 Recommendations on Terrorist Financing in the context of technical assistance. As a first step, the AML Act will be amended to allow for the Minister of Finance to issue regulations in the areas brought out in the recommendations in the AML/CFT assessment. The new regulations are expected to be in place by end 2004.

In addition to the envisaged strengthening of the legal and regulatory framework, we have taken a number of steps to enhance the implementation of AML/CFT measures in the banking sector. In particular, in the last two years the CBS carried out on-site inspections of banks that among other issues focused on AML/CFT issues. During these inspections we evaluated the banks' policies and procedures in this area. Of the six banks under the supervision of the CBS, five inspections were carried out over the course of the last two years and the sixth bank is due for an on-site inspection in early September 2004, including a detailed examination of AML/CFT issues. Moreover, to increase overall awareness and to emphasize recent best practices concerning AML/CFT issues, we have been carrying on training sessions for the staff of the banks (including the Seychelles Credit Union) since February of this year.

Table 5. Seychelles: AML/CFT Action Plan and Authorities' Response

AML/CFT Requirements	Recommended Action
Part 1: Suggested actions for the legal and institutional framework	
Customer due diligence	<p>The AML Act should be amended to provide that core provisions on customer identification procedures are set out in the AML Act rather than in the Guidance Notes; The customer identification requirements regarding non-resident individuals and non-resident companies, as well as regarding IBCs, should be strengthened.</p> <p>CBS' Comments: <i>The proposal is to amend the existing AML Act and allow the Minister for Finance to make regulations and possibly use sections 6 and 10 of what has been proposed in the draft legislation on AML/CFT in the regulations.</i></p>
Record Keeping	<p>The AML Act should be amended to provide that core provisions on record keeping procedures are set out in the AML Act rather than in the Guidance Notes.</p> <p>CBS' Comments: <i>Proposed regulations will set out what has been suggested in section 8 of the draft AML/CFT legislation..</i></p>
Suspicious transactions reporting	<p>The AML Act should be amended to emphasize that suspicious transaction reports must be submitted promptly (without undue delay), and to provide for an explicit confidentiality waiver and legal protection for reporting entities and their staff when submitting suspicious transaction reports in good faith.</p> <p>CBS' Comments: <i>Proposed regulations would cover in detail reporting of suspicious transactions and possibly use what has been proposed in section 12 of the draft AML/CFT legislation.</i></p>
AML/CFT internal controls	<p>Internal controls should be extended to include terrorist financing issues; The AML Act should be amended to require the appointment of a compliance officer.</p> <p>CBS' Comments: <i>Proposed regulations would consider covering section 18 of the draft AML/CFT legislation.</i></p>
Sanctions	<p>The AML Act should be amended to increase the maximum penalties for non-compliance with specific reporting and other obligations imposed under the AML Act; The authorities should consider the possibility to grant explicit authority to the CBS to impose administrative fines directly.</p> <p>CBS' Comment: <i>To be discussed with AG's office.</i></p>

<p>Integrity standards</p>	<p>The FIA and AML Act should be amended to require CBS approval of any subsequent changes in management, directors and significant shareholders; CBS' Comment: <i>The draft FIA contains such an amendment.</i></p> <p>With regard to other persons, the authorities may consider to establish fit and proper standards in the AML Act; CBS' Comment: <i>To be considered when updating guidance notes; the latter to become more binding.</i></p> <p>The Company Registrar should intensify background checks for managers, directors and shareholders of domestic companies; SIBA should increase the level of oversight for IBCs and for licensing registered agents and trustees.</p>
<p>Criminalization of money laundering and financing of terrorism</p>	<p>Legislation criminalizing terrorism, terrorist organizations and terrorist financing should be adopted as soon as possible, and by December 31, 2002 at the latest; CBS' Comment: <i>Prevention of Terrorism Act 2004 enacted in June 2004.</i></p> <p>The AML Act should be amended to stipulate the loss of authority to do business as one of the sanctions for money laundering; CBS' Comment: <i>To be considered as part of the amendment to the existing AML Act.</i></p> <p>The International Convention for the Suppression of the Financing of Terrorism and the Palermo Convention should be ratified as soon as possible, and by December 31, 2002 at the latest. CBS' Comment: <i>Palermo Convention ratified on March 30, 2004 while the former was ratified on April 22, 2004</i></p>
<p>Confiscation of proceeds of crime or assets</p>	<p>The legal provisions on forfeiture should be amended to explicitly provide for the forfeiture of substitute assets obtained with funds that were partly proceeds of crime and partly legitimate resources, and for the forfeiture of assets of equivalent value. The provisions should also be clarified regarding the forfeiture of any income or gains received on proceeds of crime; The AML Act should be amended to permit the temporary seizure of assets. CBS' Comment: <i>Proposed regulations would consider covering what has been proposed under section 38(13) of the draft AML/CFT legislation.</i></p>

<p>Process for receiving analyzing, and disseminating disclosures of financial information and intelligence</p>	<p>The Central Bank of Seychelles Act should be amended to clearly set out that the CBS may exercise the function of a financial intelligence unit in the Seychelles; CBS' Comment: To be included in the amendment to the AML Act.</p> <p>The AML Act should be amended to provide for an effective mechanism to freeze suspicious transactions; CBS' Comment: <i>To be considered as part of the amendment to the existing AML Act.</i></p> <p>CBS staff should be protected by granting explicit personal legal protection when carrying out their official duties; CBS' Comment: <i>Existing AML Act to be amended to cover this.</i></p> <p>One additional staff experienced in AML/CFT issues should be allocated to AML/CFT issues by December 31, 2002; CBS' Comment: <i>One experienced officer handles AML/CFT issues but is assisted by three other officers, including the head of Bank Supervision.</i></p> <p>The flow of information between the various government entities involved in the AML/CFT effort should be improved and a forum to combine the financial expertise of CBS staff with the investigative knowledge of the police force should be put in place.</p>
<p>International cooperation in AML/CFT matters</p>	<p>The powers of the CBS to receive and disseminate information should be specified by law. CBS' Comment: <i>Being taken up with the AG's office.</i></p>
<p>Part 2: Suggested actions for the banking sector</p>	
<p>Organizational and administrative arrangements</p>	<p>CBS should carry out onsite inspections focusing on AML/CFT issues; Banks should be required to submit their AML/CFT internal guidelines to CBS for review; CBS' Comment: <i>Since 2003, five of the six commercial banks have undergone on-site examinations and their AML/CFT internal guidelines have been evaluated by CBS. The last bank is due to be examined in early September 2004.</i></p> <p>CBS should intensify training sessions and emphasize recent best practices regarding AML/CFT issues and regularly provide updated guidance on identifying suspicious transactions. CBS' Comment: <i>Training began in February 2004; the presentation carried out can be viewed on CBS' website: www.cbs.sc.</i></p>

<p>Customer identification and due diligence</p>	<p>Banks should increase their focus on identifying the ultimate beneficial owners of funds; CBS' Comment: <i>As part of the on-site examination carried out this is an area that is rigorously covered.</i></p> <p>Rigorous customer identification procedures for IBCs need to be put in place; CBS should issue special guidance regarding private banking activities and higher risk customers, such as politically exposed persons. CBS' Comment: <i>These issues will be covered when the guidance notes are updated.</i></p>
<p>Monitoring and reporting suspicious transactions</p>	<p>CBS should issue guidance to banks alerting them to the need to consolidate customer accounts for monitoring and suspicious transaction reporting purposes. CBS' Comment: <i>This issue will be covered when the guidance notes are updated.</i></p>
<p>Record keeping, compliance and audit</p>	<p>CBS should ensure that all banks appoint a compliance officer. CBS' comment: <i>This has already been done during the on-site examinations recently carried out. CBS intends to have a presentation on the responsibilities of the MLRO or compliance officer sometime during the latter part of 2004.</i></p>
<p>Cooperation between supervisors/regulators and competent authorities</p>	<p>The procedures for cooperation and exchange of information with central banks and foreign regulatory authorities should be enhanced and formalized. CBS' Comment: <i>Amendments have been made to the draft FI legislation to allow for this.</i></p>
<p>Licensing and authorizations</p>	<p>The reviews of CBS concerning fit-and-proper requirements for managers, directors and significant shareholders should be strengthened. CBS' Comment: <i>Amendments have been made to the draft FI legislation to cater for this.</i></p>