

SEYCHELLES

NATIONAL STRATEGY FOR ANTI – MONEY LAUNDERING & COMBATTING THE FINANCING OF TERRORISM

Structures, Functions & Strategies

During the past decade, the financial sector in Seychelles has undergone considerable change. In particular, the creation and self-promotion of the Seychelles as an off-shore jurisdiction brings with it the attendant risk of the jurisdiction being used for money-laundering purposes or the financing of narco-terrorism. Aware of this risk, the Government had the foresight to introduce and implement a robust legislative framework for AML/CFT to combat any attempts to launder money through the jurisdiction. The national strategy for confronting money-laundering can be summarised as follows:

Legislative Framework for AML/CFT

The Central Bank of Seychelles is the main regulator and supervisor of financial institutions whilst the Financial Intelligence Unit (FIU), an independent statutory body, is responsible for ensuring compliance with AML/CFT legislation. The foundation legislation is the Anti-Money Laundering (AML) Act 2006, developed with assistance from the IMF, and the Prevention of Terrorism Act 2004. The AML Act 2006 creates an appropriate framework for the application of ‘Know Your Customer’ (KYC) principles and the conduct of due diligence checks on prospective clients and transactions and fixes responsibility on reporting entities for the reporting of suspicious transactions. Compliance with the legislation is ensured by regular on-site inspections by staff from the Financial Intelligence Unit (FIU). In particular, stringent criteria are applied to applicants for the creation of offshore banks in the jurisdiction with only two offshore banks being licensed to date, both offshore banks being branches of internationally reputable banks.

Three additional pieces of legislation were passed unanimously by the national legislature in August 2008. The Anti-Money Laundering (Amendment) Act 2008 significantly enhanced the original Act, providing a much more comprehensive definition of money-laundering and creating an enhanced Financial intelligence Unit (FIU) function, no longer with simple administrative powers, but with the powers to investigate suspicious transactions, liaise with equivalent international agencies and bring cases for AML/CFT to court.

In addition, a new Proceeds of Crime (Civil Confiscation) Act 2008 was passed by the legislature which introduced a lawful regime for the freezing and civil confiscation of criminal assets even in cases where the predicate offence takes place outside the jurisdiction.

Finally, a National Drugs Enforcement Agency (NDEA) Act was passed in 2008 which established an independent agency for confronting drug-trafficking and narco-terrorism.

Implementation

In order to better co-ordinate all efforts to combat ML/FT more efficiently, a National Anti Money Laundering Committee was established in December 2007. The committee which is chaired by the FIU Director comprises of representatives from the Central Bank of Seychelles, Seychelles Police, the Attorney General's office, Customs, Immigration, Tax, Seychelles International Business Authority (SIBA), Ministry of Foreign Affairs, National Drugs Enforcement Agency (NDEA), Seychelles Licensing Authority (SLA) and the FIU. The committee meets every quarter to discuss issues related to Anti-money Laundering and the Financing of Terrorism.

In practice the FIU is the primary agency involved in AML/CFT and it acts as the main national co-ordination centre on AML/CFT issues. It maintains a close link to the Central Bank and its regulatory functions, and co-operates with and supports the offices of the Attorney General (AG), the NDEA, the Seychelles Police Force, the Seychelles International Business Authority (SIBA), the Seychelles Bankers Association (SBA), the Ministry of Finance (MoF), Ministry of Foreign Affairs, Ministry of Internal Affairs, Tax, Immigration, Customs and Seychelles Investment Bureau (SIB).

In accordance with the Act, the FIU;

- 1) Monitors compliance by ensuring that the staff of all reporting entities designated under the Act are educated and effective in relation to best practices and processes on AML, by conducting random inspections for compliance and by reporting back perceived vulnerabilities. The FIU can effect punitive sanctions when dealing with non-compliant entities;
- 2) Detects instances of money-laundering by receiving Suspicious Transaction Reports (STR) from reporting entities, domestic agencies, governmental departments and peer international agencies and liaisons;
- 3) Investigates suspected AML/CFT instances and prepares appropriate case files for consideration by the Attorney General (criminal cases) or by its own legal representatives (civil cases);
- 4) Freezes assets reasonably suspected of being the proceeds or instrumentalities of crime pending investigation and presentation to the courts;
- 5) Cooperates with lawful requests from international AML/CFT or other appropriate law enforcement agencies on money-laundering cases linked to serious crime or terrorism. Requests for cooperation can be made in accordance with the Mutual Assistance in Criminal Matters Act, international conventions or

- other appropriate bilateral or multi-lateral legal instruments. International information requests for intelligence purposes only are conducted on an agency-to-agency basis;
- 6) Reports to the Government on an annual basis and advises on national policy in relation to AML/CFT;
 - 7) Maintains a programme of self-improvement by monitoring international developments in AML/CFT, interacting with expert international agencies and embracing a progressive programme of training and development for its personnel and its partners;

The FIU's main domestic partners in AML/CFT include:

- The Central Bank is responsible for supervising the implementation of laws and regulations governing the operations of financial institutions such as banks and Bureau de Change. Supervisory authority of the insurance sector, Development Bank of Seychelles as well as the Seychelles Credit Union has been delegated to the Central Bank by the Ministry of Finance.
- The AG is responsible for the drafting of legislation on AML including criminalization of money laundering and the Criminal Financing of Terrorism (CFT), and international legal co-operation under the Mutual Assistance in Criminal Matters Act. The AG also initiates legal action in cases involving money laundering, terrorism financing and criminal forfeiture of proceeds of crime.
- SIBA is the regulator of International Business Companies (IBC) and Seychelles International Trade Zone (SITZ) companies, each with specific legislation governing them. SIBA licenses registered agents and ensures that they carry out due diligence tests when registering new companies.
- The NDEA is the independent statutory State Agency involved in counter macro-terrorism investigations.
- The Commissioner of Police is responsible for the investigation of criminal cases and maintenance of law and order.
- The Ministry of Foreign Affairs (MFA) is the focal point for communications concerning requests of assistance in criminal matters; prepares, negotiates and provides for presentation to government of bilateral agreements related to legal assistance, drug trafficking prevention, etc; and also international conventions on these matters, including transnational organized crime and terrorism. The MFA also keeps records of the notifications concerning changes to the UN Security Council Al-Qaida and Taliban Sanctions Committee's List and forwards these, on a regular basis, to the relevant agencies in Seychelles.

- The Seychelles Investment Bureau is responsible for processing and conducting due diligence on all foreign investment proposals submitted.
- The Seychelles Revenue Commission (SRC) is responsible for the collection of all revenue due to the Government including revenue due on imports is payable as well as preventing the importation of illegal or prohibited items into the country. The latter is handled by the Customs Division of SRC.
- The Registrar of Companies is responsible for domestic companies including companies incorporated under the Companies (Special Licences) Act 2003.

Going Forward

Money laundering and the financing of terrorism are transnational crimes which threaten not just the Seychelles, but the international community. The Seychelles National Strategy for AML/CFT is to continue developing a best-of-breed framework for confronting attempts by serious criminals or terrorists to abuse this jurisdiction for money laundering purposes or the financing of terror. It will achieve this through effective and coordinated legislation, oversight and enforcement, and by a complete commitment to international cooperation in the fight against transnational crime.

September 28, 2010