# Country Reports

## Afghanistan

Afghanistan is not a regional financial or banking center. Its financial and credit institutions are rudimentary. Afghanistan does not have anti-money laundering or terrorist financing legislation. Efforts are being made to strengthen police and customs forces, but there are few resources and little expertise to combat financial crimes. While the general security situation has been a substantial obstacle to efforts by the central government to establish and regulate basic financial structures, the more fundamental obstacles are legal, cultural and historical antipathy to modern, Western-style institutions such as commercial banks.

Afghanistan currently does not have commercial banks, and its Central Bank has only been reestablished about a year. The economy is almost exclusively based upon cash transactions. Much of the money laundering in Afghanistan is linked to the trade of narcotics. Afghanistan accounts for the large majority of the world's opium production and in 2003 its internal production of opium increased. Opium gum itself is often used as a currency. It is used as a storehouse or bank of value in prime production areas. The International Monetary Fund and the World Bank estimate as much as 50 percent of the GNP of Afghanistan is derived directly from narcotics activities. Recycling of money generated from the drug trade is reputed to have fueled a significant real estate boom in Kabul, as well as a sharp increase in capital investment in rural poppy growing areas.

Afghan opium is refined into heroin, often broken into small shipments, and smuggled across porous borders via truck or mule caravan for resale broad. Payment for the narcotics outside the country is generated through a variety of means, including trade based money laundering. Narcotics are sometimes thought of as just another commodity or trade good. There are reports that the going rate for a kilo of heroin in certain areas is a color television set. A barter system has developed whereby narcotics in Afghanistan and neighboring Pakistan are exchanged for foodstuffs, vegetable oils, electronics, and other goods. Many of these trade goods are smuggled into Afghanistan from neighboring countries or enter through the Afghan Transit Trade without payment of customs duties or tariffs. Invoice fraud, corruption, indigenous smuggling networks, and legitimate commerce are all intertwined. Hawala and informal currency exchanges networks take the place of banks. Commodities are often used to provide countervaluation in trade-based hawala transactions.

There is clear evidence throughout Afghanistan that large amounts of cash generated from narcotics activities are available to and used by organizations and factions opposed to the coalition and GOA. Many of the areas of the country where Taliban and extremist influence and activities are highest (Hilmand and Nangahar, for example) coincide exactly with extensive narcotics activities in the same areas.

Afghanistan is a party to the 1988 UN Drug Convention. Afghanistan is a party to both the UN Convention against Transnational Organized Crime and the UN Convention for the Suppression of the Financing of Terrorism.

Much work is required to develop and modernize Afghanistan's infrastructure, financial framework, judiciary, and civil service including its police and customs service. An effective first step in constructing an anti-money laundering program would be to enact anti-money laundering and antiterrorist finance legislation that complies with international standards. Italy, as the lead coalition partner on law reform, has not concentrated on financial crime because of the more immediate need for basic criminal procedure laws and because there is no financial system to regulate. The narcotics trade and money laundering are inextricably linked in Afghanistan. The proceeds of narcotics have

permeated into all levels of the economy. In order to combat money laundering and terrorist financing, Afghanistan must successfully combat narcotics trafficking.

## Albania

Albania remains at significant risk for money laundering because it is a transit country for trafficking in narcotics, arms, contraband, and illegal aliens. Organized crime groups use Albania as a base of operations for conducting criminal activities in other countries, sending large sums of illegitimately earned money back to Albania. The proceeds from these activities are easily laundered in Albania because of weak government controls. Money laundering is believed to be occurring through the investment of tainted money in real estate and business development projects, and through other means, including the direct purchase of treasury bills by individuals from the Central Bank in unregulated window transactions. Customs controls on large cash transfers are not believed to be effective due to lack of resources and corruption of customs officials.

Albania's economy is primarily cash-based. Electronic and ATM transactions are rare to nonexistent. According to the Bank of Albania, the Central Bank, 33 percent of the money in circulation is outside of the banking system, compared to an average of 10 percent in other Central and Eastern European transitioning economies. The Government of Albania (GOA) pays its own civil servants in cash. There are 15 banks, but only seven of them are considered to be major players in the system. In 2003 the Bank of Albania held a roundtable discussion with the Bankers' Association and the Ministry of Finance and Economy to determine the best way to promote the use of the banking system and lure people away from cash circulation.

Albania criminalized all forms of money laundering through Article 287 of the Albanian Criminal Code of 1995. Law No. 8610 "On the Prevention of Money Laundering" (passed in 2000) requires financial institutions to report to an anti-money laundering agency all transactions that exceed approximately $10,000 as well as those that involve suspicious activity. Financial institutions are required to report transactions within 48 hours if the origin of the money cannot be determined. In addition, private and state entities are required to report all financial transactions that exceed certain thresholds. The Bank of Albania has established a task force to confirm banks' compliance with customer verification rules.

The legislation also mandates the establishment of an agency to coordinate the GOA's efforts to detect and prevent money laundering. The Agency for Coordinating the Combat of Money Laundering (ACCML) is Albania's financial intelligence unit (FIU). The ACCML falls under the control of the Ministry of Finance and evaluates reports filed by financial institutions. If the agency suspects that a transaction involves the proceeds of criminal activity, it must forward the information to the prosecutor's office. The ACCML has the ability to enter into bilateral or multilateral information sharing agreements on its own authority. In the first six months of 2003, ACCML received more than 265 reports, including seven which were passed to the state police for further investigation, and three which went to the prosecutor's office.

In June 2003, Parliament approved Law No. 9084, strengthening the old Law No. 8610, as well as improving the Criminal Code and the Criminal Procedure Code. The new law redefines the legal concept of money laundering, harmonizing the Albanian definition with the EU's and bringing it into line with EU and international conventions. The law mandates identification of beneficial owners and increases FIU responsibility. Under the revised Criminal Code, authorizing confiscation of accounts, defining money laundering, prohibiting anonymous accounts and criminalizing, with strong penalties, the financing of terrorism, by identifying terrorism financing and other support activities focused at terrorist actions and organizations as criminal acts, are expanded and improved. The Code of Criminal Procedure vastly improves the Albanian confiscation regime.

Law 9084 also clarifies and improves the role of the FIU. It has been given additional status by its designation as the national center for the fight against money laundering. Also, the duties and responsibilities for the FIU are better specified. The law also establishes a legal basis for increased cooperation between the FIU and the General Prosecutor's Office, while creating an oversight mechanism over the FIU to ensure it fulfills, but does not exceed, its responsibilities and authority. Previously, coordination against money laundering and terrorist financing among agencies was sporadic.

Banking groups have objected to the implementation of some aspects of the law, especially with regard to what they see as onerous reporting requirements (currently a 61-question form must be filled out for all transactions, including bank-to-bank transfers, above $200,000). There is some concern that the sheer length of the form will discourage new clients. In addition, financial institutions that submit reports are required to do so within 72 hours. Aside from banks, bureaux de change, casinos, tax and customs authorities, accountants, postal services, insurance companies, and travel agencies are also obligated entities for threshold reporting. The new law may also cover informal value transfer systems.

There has been one prosecution initiated under the new Law No. 9084. In the two years preceding that law, there were seven prosecutions brought under the old law. Of these eight prosecutions, two are pending in the courts and six have yet to be brought to trial.

Albanian law does not allow for asset forfeiture without a court decision requiring the measure. However, the GOA has used its anti-money laundering law to freeze the assets of individuals and organizations on the UN Security Council terrorism list. Albania is currently working on a confiscation regime, with draft legislation under review. Although the GOA has not taken steps against alternative remittance systems or charitable organizations, such informal transactions are believed covered under the new law. Additionally, although the GOA does not normally monitor the use of funds by charitable organizations, the Ministry of Finance has explored additional legislation that would include such oversight, but has not yet proposed amendments. The GOA has aggressively acted against suspected charitable organizations, resulting in their removal from the country. The GOA has seized $840,000 in liquid criminal and terrorist assets, and about $1.5 million in real estate (some estimates of value are much higher) in the past two years (mostly related to actions against terrorist financiers). In 2003, approximately $700,000 was seized (all related to criminal, as opposed to terrorist, activities).

The ACCML became a member of the Egmont Group in July 2003, and continues to cooperate with its counterparts, signing MOUs with Slovenia and Bulgaria and participating in exchanges for training purposes. The GOA has also agreed to fight corruption jointly with Italy.

Albania is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and became a party to the UN International Convention for the Suppression of the Financing of Terrorism on April 10, 2002. On August 21, 2002, Albania ratified the UN Convention against Transnational Organized Crime. Albania is a party to the 1988 UN Drug Convention and in December 2003 signed the UN Convention Against Corruption. Albania is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and participates in the Southeastern Europe Cooperative Initiative (SECI).

The GOA should continue to implement all aspects of the new legislation, work to hone its asset forfeiture regime, clarify interagency anti-money laundering responsibilities and provide adequate legal and financial resources to the ACCML.

## Algeria

Algeria is not a financial center and the extent of money laundering through formal financial institutions is believed to be minimal due to stringent exchange control regulations and an antiquated banking sector. On April 7, 2002 the Government of Algeria adopted Executive Order 02-127, which established the Cellule du Traitement du Renseignement Financier (CTRF), an independent Financial Intelligence Unit (FIU) within the Ministry of Finance. Articles 104-110 of the Finance Law of 2003 require financial institutions to report all suspicious activities to the CRTF. All financial institutions are obligated to comply with requests from the CRTF or face criminal penalties. The legislation also allows assets to be frozen for up to 72 hours on the basis of suspicious activity. Information collected by the CRTF is governed under the laws protecting professional privacy. State protection is provided for both officials and informants. The partial convertibility of the Algerian dinar enables the Central Bank to monitor all international financial operations carried out by public or private banking institutions. Individuals entering Algeria must declare all foreign currency to the customs authority. Algeria is not an offshore financial center.

Algeria has drafted but not yet implemented anti-money laundering legislation. It is expected that the draft law will be introduced for consideration by the Algerian Parliament during the second half of 2004. Algeria has not yet prosecuted any money laundering cases because of the current lack of a legal framework under which to do so.

Algeria criminalized terrorist financing by adopting Ordinance 95.11 on February 24, 1994 making the financing of terrorism punishable by 5-10 years of imprisonment.

Algeria is a party to both the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. On October 7, 2002 Algeria became a party to the UN Convention against Transnational Organized Crime, which entered into force in September 2003.

Algeria should enact a comprehensive anti-money laundering regime and criminalize money laundering for all serious crimes.

## Andorra

Due to its geographical location in the Pyrenees, its relatively strong financial system, and the free movement of money across its frontiers, Andorra is an attractive destination for those seeking to undertake money laundering operations. Despite this, though, Andorra is a very small country with just seven banks.

Predicate offenses for money laundering are defined in the criminal code and include drug trafficking, hostage taking, sales of illegal arms, prostitution, and terrorism. Andorra complies with the Financial Action Task Force (FATF) 40 recommendations plus the Special Recommendations on Terrorist Financing. Andorra substantially revised its anti-money laundering regime in December 2000 with the passage of its Law on International Criminal Co-operation and the Fight against the Laundering of Money and Securities Deriving from International Delinquency (December 2000 Act). Essentially, this law imposes reporting obligations upon Andorran financial institutions, insurance and re-insurance companies, and natural persons or entities whose professions or business activities involve the movement of money or securities that may be susceptible to laundering. It specifically covers external accountants and tax advisors, real estate agents, notaries, and other legal professionals when they are acting in certain professional capacities, as well as casinos and dealers in precious stones and metals. Reports of suspicious transactions (STRs) are made to the Unit for the Prevention of Laundering Operations (UPB), Andorra's financial intelligence unit (FIU). Article 49 of the December 2000 Act contains a tipping off prohibition, and Article 50 provides a safe harbor, in that individuals or entities who report suspicious activities or transactions under this law are not liable for violations of any other secrecy or confidentiality statutes.

A decree to set up specific regulations to cover all administrative aspects of the December 2000 Act was approved in August 2002. The decree requires retail establishments to notify the government of any transactions for gems and jewelry where the payment made in cash is greater than 15,000 euros. The law also requires banks to notify the FIU of any currency exchanges where the amount is over 1,250 euros.

Customer identification, including identification of the beneficial owner, is required at the time a business relationship is established and before any applicable transaction. Records verifying identity must be kept for a period of at least ten years from the date when the business relationship ends.

In 2003, Andorra set up a legislative commission that reviewed the Criminal Code and anti-money laundering laws. The explicit criminalization of terrorism financing was included in this review, as were general modifications to hone the banking sector regulations. The Parliament is currently working on changes to the Criminal Code. In addition, Andorra is bringing its customer identification processes up to international standards. The new Loi de l'INAF (Institut Nacional Andorrà de Finances) was passed by the Parliament on October 23, 2003, and became effective on November 27, 2003. INAF, which replaced the old Commission Supérieure de Finances (CSF), is a totally independent monitoring body, responsible for monitoring and supervision of the financial system, management of public debt, carrying out field inspections, and taking disciplinary action. Although it does not have supervisory authority over the insurance sector yet, INAF will present a bill to the Parliament during the first quarter of 2004 that will integrate the insurance sector with the other financial sectors—thus bringing the insurance sector under INAF authority as well.

The UPB was established in 2001. UPB, with a staff of five, is an administrative unit with no law enforcement powers of its own. UPB acts in a supervisory role, and provides education regarding compliance and money laundering prevention to financial services providers. In 2003 UPB inspected the two main banks in Andorra, and was instrumental in coordinating outreach. In 2003, UPB organized a training program for notaries and lawyers in conjunction with Spain's SEPBLAC, and, with the Andorra Banking Association, held training seminars for banks and police. UPB also organized joint training with KPMG for 180 gatekeepers. UPB works closely with the banking community, including providing training in recognizing questionable transactions; as a result, banks have become more cooperative with UPB as well.

In 2003, UPB documented significant progress. It received 34 STRs—26 from banks, 2 from nonbank financial intermediaries, 3 from legal professionals, two from notaries and one from a realty agent. Twelve of these cases were prosecuted, with seven going to the Prosecutor General. The year 2003 saw Andorra's first money laundering conviction as well as its first asset confiscation: On February 26, 2003, three Spaniards were convicted for a major money laundering offense in connection with drug trafficking in Spain. Two of the convicted received 5 years' imprisonment and a fine of 150,000 euros, and the third received three years' imprisonment and a 50,000 euros penalty. Andorra also invoked provisional measures, freezing three bank accounts totaling 20 million euros and another bank account of 1.3 million euros, and seizing an additional bank account along with a building.

The police work closely with the FIU, and a newly passed article authorizes the use of telephone taps and undercover officers in money laundering investigations. The UPB can freeze assets administratively for five days without a judicial order. If the assets need to be held for a longer period, the UPB can seek a judicial order, which normally occurs within the five-day period the UPB is authorized to hold the accounts. Judicial freeze orders can be effective for an indefinite period of time.

The entirety of Title I of the December 2000 Act pertains to the organization of international judicial help, generally easing previous restrictions that had applied when a foreign authority requested information protected by Andorran bank secrecy. Information may be furnished in response to requests otherwise conforming to Andorran law.

UPB is the agency that would deal with terrorism financing, but the crimes it has detected run toward drug trafficking and fraud, rather than to terrorism financing. To date it has not dealt with any cases involving terrorism.

Andorra has signed, but not yet ratified, the UN International Convention on the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. Andorra has signed and intends to ratify the European Convention on Mutual Legal Assistance in 2004. Andorra is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Although not a member of the European Union, Andorra has very close cultural and geographic ties to Spain and France. The UPB works closely with its Spanish and French counterparts and has signed cooperation agreements with these jurisdictions as well as with Belgium. In fact, Andorra does not have a requirement for cross-border currency declarations, because with Spain's threshold at 8,000 euros and France's at 6,000 euros, it would be impossible to enforce. The UPB is a member of the Egmont Group. In addition, Andorra is a strong participant in the Council of Europe's MONEYVAL Committee, and underwent that organization's second round mutual evaluation last year. Despite its progress and cooperation concerning money laundering, the OECD continues to cite Andorra on its black list as a "tax haven" due to its low or nonexistent taxes, and maintains that Andorra still needs to make its banking system more transparent. Andorra is working on hosting a typologies seminar for anti-money laundering and countering the financing of terrorism.

Andorra should continue to enhance its anti-money laundering regime by broadening its definition of money laundering to expand the list of predicate offenses. Andorra should enact and fully implement the changes to the criminal code it is considering, including a provision to criminalize terrorist financing.

## Angola

Angola is not a regional or offshore financial center and has not prosecuted any known cases of money laundering. Yet the laundering of funds derived from pervasive corruption is a concern, as is the illegal trade in diamonds and the usage of diamonds as a conduit for money laundering schemes. It is possible that links exist between the illegal diamond trade and international drug and criminal organizations. Angola is participating in the "Kimberley Process," which is a globally coordinated effort to halt trade in "conflict" diamonds in countries such as Angola through domestically implemented national rough diamond trade control regimes. Angola has already implemented a domestic system in accordance with the Kimberley Process.

Angola has no comprehensive laws, regulations, or other procedures to detect money laundering and financial crime. Angola's counternarcotics laws criminalize money laundering related to narcotics trafficking. The Central Bank of Angola does have some authority to freeze assets and legislation was pending at the end of the year to improve protections against money laundering. Angola currently does not have a clear system for identifying, tracing, or seizing assets.

Angola has not deposited its instruments of ratification to the 1988 UN Drug Convention. Angola has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Angola has not signed the UN International Convention for the Suppression of the Financing of Terrorism.

Angola should become party to the 1988 UN Drug Convention, UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. It should criminalize terrorist financing and money laundering related to all serious crimes. Angola should develop viable anti-money laundering and anti-corruption programs. Law enforcement and customs should be cognizant of how trade is misused to launder money.

## Anguilla

Anguilla is a United Kingdom (UK) overseas territory with a population of approximately 12,738. The economy depends greatly on its growing offshore financial sector and tourism. The financial sector is small in comparison to other jurisdictions in the Caribbean, but growing substantially, which makes Anguilla vulnerable to money laundering.

Anguilla has 4 domestic banks and 20 registered insurance companies. The Eastern Caribbean Central Bank supervises the four domestic banks, and signed a memorandum of understanding in 2002 with the Governor of Anguilla to supervise the two licensed offshore banks. The offshore sector also includes approximately 3,041 international business companies (IBCs), 128 limited liability companies, 7 limited partnerships, 1,466 ordinary companies, 29 licensed company managers, and 12 trust companies. There is one entity operating in securities and one unit trust operating under a trust license. The Anguilla Commercial Online Registration Network (ACORN) enables instant electronic incorporation and registration of companies and trusts. Operational since November 1998, ACORN is available 24 hours a day and accessible in various languages. The Financial Services Department (FSD), which is part of the Ministry of Finance, conducts due diligence of ACORN on behalf of the Registrar of Companies. IBCs may be registered using bearer shares that conceal the identity of the beneficial owner of these entities; however, legislation is being drafted to immobilize bearer shares.

In November 2003, the Financial Services Commission (FSC) Act was passed. The FSC Act creates an autonomous regulatory agency that will assume most of the FSD supervisory authority. The Act empowers the agency to approve the appointment of compliance officers of licensees, conduct compliance inspections, monitor activity within the financial sector, and undertake enforcement actions against persons involved in unlawful activity. The agency will also monitor compliance with the Anti-Money Laundering Regulations of 2000, and guidance notes, and will recommend new laws or legislative amendments. The agency will be governed by a board of directors and is expected to become operational in February 2004.

The Proceeds of Criminal Conduct Act (PCCA) of 2000 extends the predicate offenses for money laundering to all indictable offenses and allows for the forfeiture of criminally derived proceeds. The Act provides for suspicious activity reporting and a safe harbor for this reporting. In July 2000, the Money Laundering Reporting Authority Act came into force, and amended the Drugs Trafficking Offenses Ordinance of 1988. The Act requires persons involved in the provision of financial services to report any suspicious transactions derived from drugs or criminal conduct, and establishes requirements for customer identification, record keeping, reporting, and training procedures. The Act establishes the Money Laundering Reporting Authority (MLRA) as Anguilla's financial intelligence unit. The MLRA, with a staff of five, will receive suspicious transaction reports (STRs) and will be empowered to disclose information to any Anguillan or foreign law enforcement agency.

The Criminal Justice (International Co-operation) (Anguilla) Act, 2000 enables Anguilla to directly cooperate with other jurisdictions through mutual legal assistance. The U.S./UK Mutual Legal Assistance Treaty concerning the Cayman Islands was extended to Anguilla in November 1990. Anguilla is also subject to the U.S./UK Extradition Treaty. Anguilla is a member of the Caribbean Financial Action Task Force (CFATF), and is subject to the 1988 UN Drug Convention. The MLRA joined the Egmont Group in June 2003.

Anguilla should continue to strengthen its anti-money laundering regime by adopting measures to immobilize bearer shares and ensure that beneficial owners of IBCs are identifiable. Anguilla should also enhance the MLRA standard operating procedure for receiving and analyzing STRs. Furthermore, Anguilla should provide analytical training to staff at the MLRA and law enforcement agencies that investigate financial crimes. Anguilla should criminalize the financing of terrorists and terrorism and take measures necessary to implement the FATF Eight Special Recommendations on Terrorist Financing.

## Antigua and Barbuda

Antigua and Barbuda (A&B) has comprehensive legislation in place to regulate its financial sector, but it remains susceptible to money laundering because of its loosely regulated offshore financial sectors and its Internet gaming industry. Money laundering in the region is related both to narcotics and fraud schemes, as well as to other crimes, but money laundering appears to occur more often in the offshore sector than in the domestic financial sector.

In April 1999, both the United States and the United Kingdom (UK) issued financial advisories recommending that their respective financial institutions give enhanced scrutiny to all financial transactions routed into or out of A&B. In response to these advisories, the Government of Antigua and Barbuda (GOAB) in 1999 repealed the 1998 amendments to Antigua and Barbuda's Money Laundering (Prevention) Act (MLPA) of 1996 that had effectively strengthened bank secrecy, inhibited money laundering investigations and infringed on international cooperation. The MLPA is currently being amended to broaden the definition of supervised financial institutions to cover nonbanking institutions. In August 2001, as a result of the enactment of new laws and their substantial implementation, both the U.S. and the UK lifted their April 1999 financial advisories

In 2000, the GOAB amended the International Business Corporations Act (IBCA) of 1982 in order to excise 1998 amendments that had given the International Financial Sector Regulatory Authority (IFSRA) responsibility to both market and regulate the offshore sector as well as to allow members of the IFSRA Board of Directors to maintain ties to the offshore industry. The GOAB further amended the IBCA that year to require that registered agents ensure the accuracy of the records and registers that are kept at the Registrar's office, as well as to know the names of beneficial owners of IBCs, and to disclose such information to authorities upon request. In September 2002, the GOAB issued anti-money laundering guidelines for financial institutions requiring banks to establish the true identities of account holders and to verify the nature of an account holder's business and beneficiaries.

Unlike some of the other countries in the Eastern Caribbean, the GOAB has not chosen to initiate a unified regulatory structure or uniform supervisory practices for its domestic and offshore banking sectors. Currently, the Eastern Caribbean Central Bank (ECCB) supervises Antigua and Barbuda's domestic banking sector. The ECCB is not currently able to share examination information directly with foreign regulators or law enforcement personnel. Legislation to permit such sharing is being developed, but to be universal it must be passed by all eight of the ECCB jurisdictions.

In 2002, the IFSRA was replaced by a new entity entitled the Financial Services Regulatory Commission (FSRC). The Director of IFSRA was removed from her position and replaced by a new director. FSRC was reportedly created to unify the regulatory structure of A&B's financial services sector. FSRC is responsible for the regulation and supervision of the offshore banking sector and Internet gaming. The FSRC issues licenses for international business corporations and maintains the register of all corporations, of which there are 13,500, with 7,500 active in 2003. Bearer shares are not permitted. The license application requires disclosure of the names and addresses of directors (who must be natural persons), the activities the corporation intends to conduct, the names of shareholders and number of shares they will hold. Service providers are required by law to know the names of beneficial owners. The FSRC conducts examinations and on-site and off-site reviews of the country's offshore financial institutions and of some domestic financial entities, such as insurance companies and trusts. From 1999 through 2003, the GOAB conducted an extensive review of the offshore banking sector. As a result, over 30 offshore banks had their licenses revoked, were dissolved, placed in receivership or otherwise put out of business. Currently, A&B has 15 licensed offshore banks in operation. Of these, however, several may not meet international physical presence standards.

The Office of National Drug Control and Money Laundering Policy (ONDCP), which is the financial intelligence unit (FIU), directs the GOAB's anti-money laundering efforts in coordination with the FSRC. The ONDCP is a department in the Prime Minister's office and has primary responsibility for

the enforcement of the MLPA. The ONDCP Act of 2003 establishes the FIU as an independent organization and the Director of ONDCP as the supervisory authority under the MLPA. Additionally, the ONDCP Act of 2003 authorizes the Director to appoint officers to investigate drug trafficking, fraud, money laundering, and terrorist financing offenses. Auditors of financial institutions review their compliance program and submit a report to the ONDCP for analysis and recommendations. Memoranda of understanding have been drafted to cover all aspects of the relationship between the ONDCP, Royal Antigua and Barbuda Police Force, Customs, Immigration, and the Antigua and Barbuda Defense Force. By October 2003, the ONDCP had received 47 suspicious activity reports.

A training program and information kit on anti-money laundering for magistrates and other judicial officers is currently in draft form, and training is scheduled for 2004. In recent years, a number of GOAB civilian and law enforcement officials, both in and out of the ONDCP, have received anti-money laundering training.

Casinos and sports book-wagering operations in Antigua and Barbuda's Free Trade Zone are supervised by the ONDCP and the Directorate of Offshore Gaming (DOG), housed in the FSRC. The DOG has 13 employees. Antigua and Barbuda has seven domestic casinos, which are required to incorporate as domestic corporations. Internet gaming operations are required to incorporate as IBCs; official sources indicate there are 34 such entities. The GOAB adopted in 2001 regulations for the licensing of interactive gaming and wagering in order to address possible money laundering through client accounts of Internet gambling operations. The 2000 and 2001 amendments to the MLPA expand its coverage to include all types of gambling entities and set financial limits above which customer identification and source of funds information are required. Internet gaming companies are required to enforce know-your-customer verification procedures and maintain records relating to all gaming and financial transactions of each customer for six years. Suspicious activity reports from domestic and offshore gaming are sent to the ONDCP and FSRC. Reportedly, they are receiving two to three each week. The FSRC and DOG have issued Internet Gaming Technical Standards and guidelines. The GOAB has drafted and is considering legislation and regulations for the licensing of interactive gaming and wagering in order to address possible money laundering through client accounts of Internet gambling operations.

In 2003, the GOAB submitted a case to the World Trade Organization's (WTO) Dispute Settlement Body requesting the establishment of an independent panel to adjudicate a dispute with the U.S. The GOAB contends that the U.S. is in violation of the WTO-General Agreement on Trade in Services because the U.S. prohibits residents from engaging in Internet gaming and betting services, and credit card companies and banks from facilitating the transactions. The WTO is currently conducting hearings on the matter. The GOAB has stated that U.S. MLAT requests for information on cases involving Internet gaming will not be honored, as Internet gaming is not illegal in A&B. The GOAB receives approximately four million U.S. dollars per year from license fees and other charges related to the Internet gaming industry.

Amendments to the MLPA in 2000, 2001, and 2002 enhanced international cooperation, strengthened asset forfeiture provisions and created civil forfeiture powers. Despite the comprehensive nature of the law, Antigua and Barbuda has yet to prosecute a money laundering case on its own but is presently seeking the extradition of two individuals from the UK and Canada, respectively, on money laundering charges. Approximately $3.4 million has been frozen in Antigua in connection with the case.

In October 2001, Antigua and Barbuda enacted the Prevention of Terrorism Act, which empowers the Supervisory Authority under the MLPA to nominate any entity as a "terrorist entity" and to seize and forfeit terrorist funds. The law covers any finances in any way related to terrorism. Antigua circulates lists of terrorists and terrorist entities to all financial institutions in Antigua. No known evidence of

terrorist financing has been discovered in Antigua and Barbuda to date. The GOAB has not undertaken any specific initiatives focused on the misuse of charitable and nonprofit entities.

In 1999, a Mutual Legal Assistance Treaty and an Extradition Treaty with the United States entered into force. The GOAB signed a Tax Information Exchange Agreement with the United States in December 2001 that allows the exchange of tax information between the two nations. In 2002, the GOAB assisted in the FBI's investigation into the activities in A&B of John Muhammed, the convicted Washington, D.C. area sniper. In 2003 the GOAB continued its bilateral and multilateral cooperation in various criminal and civil investigations and prosecutions. Because of such assistance, the GOAB has benefited through an asset sharing agreement with Canada and has received asset sharing revenues from the U.S. Despite its own civil forfeiture laws, currently, GOAB can only provide forfeiture assistance in criminal forfeiture cases. Even so, over the last 5 years, the GOAB has frozen approximately $6 million in A&B financial institutions as a result of U.S. requests and repatriated approximately $4 million. The GOAB has frozen, on its own initiative, over $90 million that it believed to be connected to money laundering cases in the U.S. and other countries.

Antigua and Barbuda is a member of the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD), and the Caribbean Financial Action Task Force (CFATF), of which it assumed the chair for 2003 and 2004. The GOAB underwent its second round CFATF Mutual Evaluation in October 2002. The CFATF found that Antigua and Barbuda's anti-money laundering framework was consistent with international standards and is being enforced. Antigua and Barbuda is a party to the 1988 UN Drug Convention, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. In June 2003, the ONDCP joined the Egmont Group.

The GOAB should continue its international cooperation and rigorously implement and enforce all provisions of its anti-money laundering legislation. The GOAB should take the necessary legislative and regulatory steps to ensure that its gambling sector is properly covered by anti-money laundering legislation and is strictly supervised. Additionally, the GOAB should vigorously enforce its anti-money laundering laws by actively prosecuting money laundering and asset forfeiture cases. The GOAB should ensure that all offshore banks licensed in Antigua and Barbuda have a physical presence, consistent with international standards.

## Argentina

Argentina is neither an important regional financial center nor an offshore financial center. Money laundering related to narcotics trafficking, corruption, contraband, and tax evasion is believed to occur throughout the financial system, in spite of the efforts of the Government of Argentina (GOA) to stop it. The financial crisis and capital controls of the past three years may have reduced the opportunities for money laundering through the banking system. However, transactions conducted through nonbank sectors and professions, such as the insurance industry; financial advisors; accountants; notaries; trusts; and companies, real or shell, remain viable mechanisms to launder illicit funds.

In the midst of the political and economic problems that continued in Argentina during 2003, the GOA made efforts to implement the regulations for anti-money laundering law 25.246 of May 2000. Law 25.246 expands the predicate offenses for money laundering to include all crimes listed in the Penal Code, sets a stricter regulatory framework for the financial sectors, and creates a financial intelligence unit (FIU), the Unidad de Informacion Financiera (UIF), under the Ministry of Justice and Human Rights. Under this law, requirements for customer identification, record keeping, and reporting of suspicious transactions by all financial entities and businesses are supervised by the Central Bank, the Securities Exchange Commission (Comisión Nacional de Valores or CNV), and the Superintendence of Insurance (Superintendencia de Seguros de la Nación or SSN). The law forbids the institutions to notify their clients when filing suspicious financial transactions reports, and provides a safe harbor

from liability for reporting such transactions. The UIF is expected to establish reporting norms tailored to each type of business. The UIF began operating in June 2002.

Resolutions 6, 7, 8, 9, 11, 15, and 17 issued by the UIF in 2003 detail procedures for the reporting of suspicious or unusual transactions by the following entities: the Central Bank, CNV, and SSN; the tax authority (Administracion Federal de Ingresos Publicos or AFIP); banks; currency exchange houses; casinos; securities dealers; registrars of real estate; dealers in art, antiques, and precious metals; insurance companies; issuers of travelers checks; credit card companies; postal money transmitters; notaries; and certified public accountants. The resolutions provide guidelines for identifying suspicious or unusual transactions, and require the reporting of those whose value exceeds 50,000 pesos. Obligated entities are required to maintain a database of all suspicious or unusual transaction reports for at least five years, and must respond to requests from the UIF for further information within 48 hours. Due to continued budget constraints, only suspicious transactions over 500,000 Argentine pesos (approximately $140,000) are reported directly to the UIF. Transactions below 500,000 Argentine pesos will go to the appropriate supervisory body for pre-analysis and subsequent transmission to the UIF if deemed necessary.

The UIF has also issued a rule for the centralized registration at the UIF of transactions involving the transfer of funds (outgoing or incoming), cash deposits, or currency exchanges that are equal to or greater than 10,000 pesos (approximately $2,700). The UIF further receives copies of the declarations to be made by all individuals (foreigners or Argentine citizens) entering or departing Argentina with over $10,000 in currency or monetary instruments. These declarations are required by Resolutions 1172/2001 and 1176/2001 issued by the Argentine Customs Service in December 2001. Argentina's Narcotics Law of 1989 authorizes the seizure of assets and profits, and provides that these or the proceeds of sales will be used in the fight against illegal narcotics trafficking. The money laundering law of May 2000 (25.246) provides that proceeds of assets forfeiture under this law can also be used to fund the UIF.

On October 21, 2003, draft legislation to criminalize terrorist financing was introduced to the Argentine Chamber of Deputies. The draft law, which modifies the Penal Code, criminalizes the financing of acts of terrorism and provides penalties for the violation of international conventions, including the United Nations International Convention for the Suppression of the Financing of Terrorism. The legislation will be considered when the new congressional session begins in March 2004. The GOA reportedly will present its own counterterrorism bill, which likely will include a provision on the financing of terrorism. The legislation, when approved, will bring Argentina into compliance with the recommendations of the UN, the Organization of American States, and the Financial Action Task Force (FATF) with regard to terrorist financing.

The GOA remains active in multilateral counternarcotics and international anti-money laundering organizations. It is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. It is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, and the FATF as well as the South American Financial Action Task Force (GAFISUD). In 2004, the GOA will serve as head of GAFISUD, whose Secretariat is based in Buenos Aires.

In July 2003 Argentina was accepted into the Egmont Group. The GOA and the United States Government (USG) have a Mutual Legal Assistance Treaty that entered into force in 1993, and an extradition treaty that entered into force on June 15, 2000. In March 2001, the GOA signed the UN International Convention for the Suppression of the Financing of Terrorism. On September 26, 2001, the Central Bank of Argentina issued Circular B-6986, instructing financial institutions to identify and freeze the funds and financial assets of the individuals and entities listed by the USG as possibly

engaged in acts of terrorism. Although no assets have been frozen, the Central Bank continues to monitor the financial institutions.

With strengthened mechanisms available under the Law 25.246, proposed terrorist financing legislation, and increased reporting requirements issued by the UIF, Argentina seems poised to prevent and combat money laundering effectively. Disputes over information sharing between the UIF, the Central Bank and the tax agency (AFIP) also need to be resolved for anti-money laundering efforts to succeed. Further implementation efforts are needed in order to succeed: increased public awareness of the problem of money laundering and the requirements under the new law, forceful sanctioning of officials and institutions that fail to comply with the reporting requirements of the law, the pursuit of a training program for all levels of the criminal justice system, and provision of the necessary resources to the UIF to carry out its mission. The GOA should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

## Armenia

Armenia is not a major financial center. Armenia has no offshore banks and few nonbanking financial institutions. Nevertheless, Armenia's high unemployment, low salaries, corruption, a large shadow economy and the presence of organized crime contribute to Armenia's vulnerability to money laundering. Armenia's large shadow economy is largely unrelated to criminal activity other than tax evasion itself, but schemes that are commonly used in Armenia to avoid taxation are similar to those used for money laundering, including the fraudulent invoicing of imports, double bookkeeping and misuse of the banking system. There are also about 30 casinos on the outskirts of Yerevan that will be subject to the new anti-money laundering regulations proposed by the government.

The Government of Armenia (GOA) has made important progress in 2003 to bring legislation and structural capacity up to international standards in the area of money laundering and terrorist finance, especially with respect to oversight of commercial banking. The lack of reports of money laundering or investigations makes it hard to tell how effective Armenia's implementation of this new legal regime will be in fighting financial crimes.

The Criminal Code prohibits the exchange of criminally obtained money with intent to obscure the money's origin. The Law on Banks and Banking and Central Bank regulations civilly prohibit transactions involving unlawfully acquired assets in Armenia and require financial institutions in Armenia to demand proof of origin and legality for deposits greater than 10 million dram (about $17,500). Under banking laws amended in October and November 2002, the Central Bank requires banks to demand certain information from people and businesses making large deposits in order to confirm the identity of clients wishing to open a bank account. Upon suspicion of money laundering or terrorist finance, banks must also report transactions to the Central Bank within one working day and freeze the account. Failure to comply with any Central Bank requirement subjects the commercial bank to civil liability. The law gives financial institutions immunity from civil liability for cooperating with investigations.

The GOA has drafted a new comprehensive money laundering law, The Law on Prevention of Illegally Received Income Legalization and Terrorist Financing, which consolidates old laws into a single piece of legislation and adds new structures of regulation. The new law on money laundering will apply to nonprofit organizations and gambling enterprises, as well as nonbanking financial institutions. The government will submit the draft to Parliament in early 2004.

The current draft of the proposed legislation creates five financial intelligence units (FIU), each regulating in discrete areas. The lack of a single FIU will likely impair Armenia's money laundering regime; casinos, for example, may have less assiduous oversight from the gambling board than the Central Bank or Ministry of Justice could provide.

The Government of Armenia has recently sought U.S. cooperation in some of its money laundering investigations, seeking information about specific transfers between Armenian and American banks.

Armenia currently has no special article of the Criminal Code that addresses the financing of terrorism, although the Criminal Code provides adequate legal basis to prosecute and freeze accounts of suspected terrorist financiers. The Central Bank has circulated lists of those named on the UN 1267 Sanctions list as associated with terrorist organizations among all the banks and has instructed them to freeze related accounts. To date, there have been no matches.

Armenia is a member of the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). Armenia is a party to the 1988 UN Drug Convention and the European Convention on Mutual Assistance in Criminal Matters. Armenia become a party to the UN Convention against Transnational Organized Crime on July 1, 2003, and to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime on November 24, 2003. Armenia intends to ratify the UN International Convention for the Suppression of the Financing of Terrorism by the end of the year, which will require a specific provision of the Criminal Code prohibiting financing terrorism.

Armenia should continue to strive to create a comprehensive anti-money laundering/antiterrorist financing regime. The GOA should extend coverage of applicable laws to nonbank financial institutions and gatekeepers, such as accountants and attorneys. The GOA should establish one centralized FIU to receive, analyze and disseminate information on money laundering and terrorist financing. The GOA should specifically criminalize the financing of terrorism.

## Aruba

Aruba is a largely self-governing Caribbean island dependency of the Netherlands. As a transit country for cocaine and heroin, Aruba is both attractive and vulnerable to money launderers. The island has an offshore sector, with approximately 560 limited liability companies and 3,760 offshore tax-exempt companies referred to as Aruba Exempt Companies (AEC). Both types of companies can issue bearer shares. There are also 11 casinos, 13 banks (five commercial and two offshore), two credit unions, and approximately 30 money transmitters and exchange offices. Additional financial sector entities include eight life insurance companies, 12 general insurance companies, two captive insurance companies, and 10 company pension funds.

Aruba's offshore industry constitutes about one percent of the GDP and is due to be phased out by the end of 2005 as part of the Government's May 2001 commitment to the Organization for Economic Cooperation and Development (OECD) in connection with the Harmful Tax Practices initiative. The Government of Aruba (GOA) initiated in 2002 a new fiscal framework that contains dividend tax and imputation credits. The proposal must be consistent with the OECD Harmful Tax Practices standards. In November 2003, the Prime Minister of Aruba signed a tax information exchange agreement with the United States. Implementing legislation is currently pending before Parliament, and a bilateral double taxation agreement is under consideration.

Aruba's offshore services include the offshore Naamloze Vennootschap (NV) or limited liability company, which is a low-tax entity, and the AEC. A local director, usually a trust company, must represent offshore NVs. A legal representative that must be a trust company represents AECs. AECs pay an annual registration fee of approximately $280, and must have a minimum authorized capital of approximately $6,000. AECs cannot participate in the economy of Aruba, and are exempt from several obligations: all taxes, currency restrictions, and the filing of annual financial statements. Trust companies provide a wide range of corporate management and professional services to AECs, including managing the interests of their shareholders, stockholders, or other creditors. In May 2000, the GOA issued guidance notes on corporate governance practices. The GOA has prepared a State

Ordinance for the supervision of trust companies, that is currently pending in Parliament. The draft Ordinance provides for the oversight of thrift companies to ensure that they follow know your customer procedures.

Following the July 4, 2000, Parliamentary approval of the State Ordinance Free Zones Aruba (FZA), in July 2001 the Parliament unanimously approved the designation of the Free Zone Aruba NV entity to operate the free zones. One aspect of this designation requires free zone customers to reapply for authorization to operate within the zones. Aruba took the initiative in the Caribbean Financial Action Task Force (CFATF) to develop regional standards for free zones, in an effort to control trade-based money laundering. The guidelines were adopted in April 2001 at the CFATF Plenary, and in October the CFATF Ministerial Council followed. As a result, the tougher standards resulted in a 65 percent drop in free zone business.

The anti-money laundering legislation in Aruba extends to all crimes including tax offenses. In most cases, money laundering is incorporated into the investigation as the underlying offense. All financial and nonfinancial institutions are obligated to report unusual transactions to Aruba's financial intelligence unit (FIU), the Meldpunt Ongebruikelijke Transacties (MOT). In 2002, authorized staffing for MOT was increased from six to 12. During 2003, three of seven vacancies were filled, and recruiting is underway for the remaining positions. MOT is not linked electronically to the police or prosecutor's office. The MOT is required to inspect all casinos, banks, money remitters, and insurance companies. On July 1, 2001, a State Ordinance was issued that extended reporting and identification requirements to casinos and insurance companies, and also authorized onsite inspections.

The State Ordinance on the Supervision of Insurance Business (SOSIB) and the Implementation Ordinance on SOSIB require insurance companies established after July 1, 2001, to obtain a license from the Central Bank of Aruba. Life insurance companies' obligation to report suspicious transactions became effective February 19, 2002. A State Ordinance of August 12, 2003, places money transfer companies under effective banking supervision with quarterly reporting requirements effective January 1, 2004.

During 2003, there was an out-of-court settlement in a case involving three linked supermarkets engaged in money laundering and banking violations, and two money laundering convictions occurred. One case involved a money transfer company and the other involved a group from the Dominican Republic, convicted for using smurf-like transactions to launder funds. In April 2003, a money laundering conviction of a free zone company was overturned on appeal.

Aruba signed a multilateral directive with Colombia, Panama, the United States, and Venezuela to establish an international working group to fight money laundering that occurs through the Black Market Peso Exchange (BMPE). The final set of recommendations on the BMPE was signed on March 14, 2002. The working group developed policy options and recommendations to enforce actions that will prevent, detect, and prosecute money laundering through the BMPE.

In June 2000, Aruba enacted a State Ordinance making it a legal requirement to report the importation and exportation via harbor and airport of currency in excess of 20,000 Aruban guilders (approximately $11,000). The law also applies to express courier mail services. There were two airport seizures of undeclared excess currency between April and September 2003.

Aruba, which has autonomous control over its internal affairs, is a part of the Kingdom of the Netherlands, and through the Netherlands, Aruba participates in the Financial Action Task Force (FATF) and, therefore, participates in the FATF mutual evaluation program. The GOA has a local FATF committee that oversees the implementation of the FATF recommendations, including the Eight Special Recommendations on Terrorist Financing. The local FATF committee reviewed the GOA anti-money laundering legislation and proposed, in accordance with the FATF Eight Special Recommendations on Terrorist Financing, amendments to existing legislation and introduction of new

laws. By December 2003, Aruba was in compliance with seven of the recommendations. As part of its commitment to combat the financing of terrorism, the GOA formed another committee to ensure cooperation within the Kingdom of the Netherlands.

Aruba is a member of CFATF and served as its Chairman in 2001. In 1999, the Netherlands extended application of the 1988 UN Drug Convention to Aruba. The Mutual Legal Assistance Treaty between the Netherlands and the United States applies to Aruba, though it is not applicable to requests for assistance relating to fiscal offenses addressed to Aruba.

The MOT is a member of the Egmont Group. A draft law, which would authorize the MOT to share information with foreign counterpart organizations with a memorandum of understanding (MOU), is pending before Parliament. In June 2001, the MOT signed an agreement with the FIUs of the Netherlands and the Netherlands Antilles to exchange information. On April 2, 2003, MOT signed an information exchange agreement with the Aruba Tax Office, which is in effect and being implemented.

The GOA has shown a commitment to combating money laundering by establishing a solid anti-money laundering regime that is generally consistent with the recommendations of the FATF and the CFATF. The GOA should immobilize bearer shares under the new fiscal framework. The GOA should also pass and implement legislation, regulations, and MOUs to improve information sharing by MOT and, if it has not specifically done so, criminalize terrorist financing.

## Australia

Australia is one of the key centers for capital markets activity in the Asia-Pacific region, with liquid markets in equities, debt, foreign exchange, and derivatives. Estimated activity across Australian exchange and over-the-counter financial markets amounted to over $40 trillion in 2003. The market capitalization of domestic equities listed on the Australian Stock Exchange as of September 2003 was $389 billion. The Government of Australia (GOA) has maintained a comprehensive system to detect, prevent, and prosecute money laundering. The major sources of illegal proceeds are fraud and drug trafficking. The last two years have seen a noticeable increase in activities investigated by Australian law enforcement agencies that relate directly to offenses committed overseas. The majority of these matters are connected to frauds committed in an overseas jurisdiction where money has either been laundered into Australia for the purpose of acquiring assets or has been laundered through Australia to overseas countries.

The Australian Federal Police (AFP) has previously estimated that crime in Australia is worth between $3.5 and $4.2 billion, annually, based on intelligence assessments of major fraud and narcotics crimes. A report commissioned by the Australian Transaction Reports and Analysis Centre or AUSTRAC, Australia's financial intelligence unit (FIU), has previously estimated that money laundering in and through Australia is estimated at around $3.5 billion per annum.

Australia criminalized money laundering related to serious crimes with the enactment of the Proceeds of Crime Act 1987. This legislation also contains provisions to assist investigations and prosecution in the form of production orders, search warrants, and monitoring orders. The Proceeds of Crime Act 2002 came into force on January 1, 2003. This Act provides for civil forfeiture of proceeds of crime as well as for continuing and strengthening the existing conviction-based forfeiture scheme that was in the Proceeds of Crime Act 1987. The Proceeds of Crime Act 2002 also enables freezing and confiscation of property used in, intended to be used in, or derived from, terrorism offenses. It implements obligations under the UN International Convention for the Suppression of the Financing of Terrorism and resolutions of the UN Security Council relevant to the seizure of terrorism-related property. The Act also provides for forfeiture of literary proceeds where these have been derived by a person from commercial exploitation by the person of notoriety gained from committing a criminal

offense. The Proceeds of Crime Act 1987 will continue in force until all court proceedings which had been commenced under it prior to January 1, 2003, are completed.

The Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002, which also came into force on January 1, 2003, repealed the money laundering offenses which had previously been in the Proceeds of Crime Act 1987 and replaced them with updated offenses which have been inserted into the Criminal Code. The new offenses are graded according both to the level of knowledge required of the offender and the value of the property involved in the dealing constituting the laundering. As a matter of policy all very serious offenses are now being progressively placed in the Criminal Code. The Criminal Code contains the general principles by which offenses are interpreted as well as other serious offenses, which in many cases will be relevant to the money laundering offenses.

The Financial Transaction Reports Act (FTR Act) of 1988 was enacted to combat tax evasion, money laundering, and serious crimes. The FTR Act requires banks and nonbanking financial entities (collectively referred to as cash dealers) to verify the identities of all account holders and signatories to accounts, and to retain the identification record, or a copy of it, for seven years after the day on which the relevant account is closed. A cash dealer, or an officer, employee, or agent of a cash dealer, is protected against any action, suit, or proceeding in relation to the reporting process. The FTR also establishes reporting requirements for Australia's financial services sector. Required to be reported are: suspicious transactions, cash transactions in excess of Australian $10,000 (approximately $7,500 as of December 2003) and international funds transfers equivalent to or exceeding Australian $10,000. FTR reporting also applies to nonbank financial institutions such as money exchangers, money remitters, stockbrokers, casinos and other gambling institutions, bookmakers, insurance companies, insurance intermediaries, finance companies, finance intermediaries, trustees or managers of unit trusts, issuers, sellers and redeemers of travelers checks, bullion sellers, and other financial services licensees. Lawyers also are required to report significant cash transactions. Accountants do not have any FTR obligations. However, they do have an obligation under a self-regulatory industry standard not to be involved in money laundering transactions. The Act also provides the GOA broad powers to seize, declare forfeit, or otherwise deny to persons the benefit of unlawful activity. The Act also creates a national Confiscated Assets Account from which the GOA may transfer assets to other governments.

AUSTRAC, Australia's FIU, was established under the FTR Act to collect, retain, compile, analyze and disseminate FTR information and to monitor compliance with reporting requirements. AUSTRAC also provides advice and assistance to revenue collection and law enforcement agencies and issues guidelines to cash dealers in terms of their obligations under the FTR Act and regulations. The Australian Taxation Office reported that more than $99 million in assessments and penalties were directly attributed to the use of AUSTRAC intelligence and that there were more than 1,500 investigations collectively reported by law enforcement agencies that involved the use of AUSTRAC's intelligence. For the year ending June 30, 2003, AUSTRAC received 8054 suspicious transaction reports, an increase of three percent over the previous year.

In June 2002, Australia passed the Suppression of the Financing of Terrorism Act 2002 (SFT Act). The aim of the SFT Act is to restrict the financial resources available to support the activities of terrorist organizations. This legislation criminalizes terrorist financing and substantially increases the penalties that apply when a person uses or deals with suspected terrorist assets that are subject to freezing. The SFT Act enhances the collection and use of financial intelligence by requiring cash dealers to report suspected terrorist financing transactions to AUSTRAC, and relaxes restrictions on information sharing with relevant authorities regarding the aforementioned transactions. The SFT Act also addresses commitments Australia has made with regard to the UNSCR 1373 and the UN International Convention for the Suppression of the Financing of Terrorism. The GOA froze three accounts in the name of a United Nations listed terrorist entity, the International Sikh Youth

Federation in September 2002. There have been no prosecutions or arrests under this legislation to date. The Security Legislation Amendment (Terrorism) Act 2002 was inserted into the Criminal Code offenses of receiving funds from, or making funds available to, a terrorist organization.

A significant milestone in the enhancement of AUSTRAC's international efforts came with the SFTA amendments to the FTR Act. These amendments provided the Director of AUSTRAC the ability to establish agreements with international counterparts to directly exchange intelligence, spontaneously and upon request. A review of the FTR Act is currently being undertaken with regard to improving procedures, implementing international best practices, and addressing further aspects of terrorist financing to include alternative remittance systems.

In 2003, AUSTRAC has seen an increase in cash dealers' reporting electronically, using the EDDSWeb system (electronic data delivery system), by 356 percent, from 42 users to 160. By encouraging cash dealers to fulfill their reporting requirements through electronic means, AUSTRAC is able to provide high quality data to its partner agencies in a timely manner. The increasing volume of reports submitted to AUSTRAC and the number of cash dealers using the EDDSWeb system significantly increases both the volume of FTR intelligence available to partner agencies and the speed with which those agencies can access that intelligence.

Australia is a member of the Financial Action Task Force (FATF), co-chairs the Asia/Pacific Group on Money Laundering (APG), and is also a member of the Pacific Island Forum and the Commonwealth Secretariat. Through its funding and hosting of the Secretariat of the APG, Australia has elevated money laundering issues to a priority concern among countries in the Asia/Pacific region. AUSTRAC is a member of the Egmont Group, and has bilateral agreements allowing the exchange of financial intelligence with 24 countries, with approximately 30 additional memoranda of understanding (MOUs) in various stages of negotiation. MOUs have recently been signed with Croatia, Mauritius, and Slovenia. Other MOUs are with Belgium, Canada, Denmark, France, Guernsey, Isle of Man, Israel, Italy, Korea, Lebanon, Malaysia, New Zealand, Poland, Portugal, Singapore, South Africa, The Netherlands, United Kingdom, United States, Vanuatu and Venezuela. In September 1999, a Mutual Legal Assistance Treaty between Australia and the United States entered into force.

Following the bombings in Bali in October 2002, the Australian Government announced an Australian $10 million initiative managed by AusAID, to assist in the development of counterterrorism capabilities in Indonesia. As part of this initiative, AUSTRAC has embarked upon a long-term technical assistance program to assist Indonesia in developing an effective financial intelligence unit (FIU). AUSTRAC conducted a project with the Government of Vanuatu to identify current issues facing the Vanuatu FIU and the potential strategies to meet these issues and enhance its operations.

Australia has signed and ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, and the 1988 UN Drug Convention. Australia is a party to the UN International Convention for the Suppression of the Financing of Terrorism on September 26, 2002.

Australia continues to pursue a well-balanced, comprehensive, and effective anti-money laundering regime that meets the objectives of the revised FATF Forty Recommendations and the Special Recommendations on Terrorist Financing. In December 2003, the Australia's Minister of Justice announced that the government will proceed with a fundamental legislative overhaul to implement fully the FATF's revised Forty Recommendations. The new standards will oblige Australia to expand customer due diligence to requirements for financial institutions and extend anti-money laundering obligations to nonfinancial businesses and professions such as real estate agents, dealers in precious metals and stones, accountants, trust and company service providers, legal professionals and notaries. It gives high priority to dealing with money laundering and to international cooperation.

AUSTRAC serves as a model for FIUs worldwide, because of its demonstrated commitment and competence in using financial reports and related information to identify money trails. The GOA should continue its efforts to emphasize money laundering issues and trends within the APG, and its commitment to providing training and technical assistance to the Asia/Pacific region. Australia should become a party to the UN Convention against Transnational Organized Crime.

## Austria

Austria is not an important regional financial center, offshore tax haven or banking center. There is no hard evidence that Austria is a major money laundering country; however, like any highly developed financial marketplace, Austria's financial and nonfinancial institutions are vulnerable to money laundering. The Austrian Interior Ministry's crime statistics show an increase in many areas of financial crime in Austria in 2002. Fraud, money laundering, and organized crime have all increased and all have a cross-border dimension. The percentage of undetected organized crime is believed to be enormous, with much of it coming from the former Soviet Union. Many of the former-Soviet crime groups are trying to launder money in Austria by investing in real estate, exploiting existing business contacts, and trying to establish new contacts in politics and business. Criminal groups seem to increasingly use money transmitters and informal money transfer systems to launder money. Organized crime is involved in money laundering in connection with narcotics trafficking and trafficking in persons, but apparently not in connection with contraband smuggling.

Austria criminalized money laundering in 1993. Predicate crimes are listed and include terrorist financing and many financial and other serious crimes. Regulations are stricter for money laundering by criminal organizations and terrorist groupings, in which cases no proof is required that the money stems directly or indirectly from prior offenses.

Currently Austria only spot checks for currency crossing the border. But the problem of international transportation of illegal-source currency and monetary instruments is being addressed by an amendment which will require declarations of cash and equivalent payment instruments in excess of 15,000 euros. Travelers will also be asked about the source of the funds, the beneficial owner, and the use of the funds, and interim seizure of funds will be allowed in the case of suspected money laundering. The government plans to send the bill to Parliament for approval in early 2004.

Adoption of the Banking Act of 1994 creates customer identification, record keeping, and staff training obligations for the financial sector. Entities subject to the Banking Act include banks, leasing and exchange businesses, safe custody services, and portfolio advisers and insurance companies underwriting life policies. The Banking Act requires identification of all customers when entering an ongoing business relationship, i.e., in all cases of opening a checking account, a passbook savings account, a securities deposit account, etc. In addition, customer identification is required for all transactions of more than 15,000 euros, for customers without a permanent business relationship with the bank. Banks and other financial institutions are required to keep records on customers and account owners. Bankers are protected with respect to their cooperation with law enforcement agencies. They are also not liable for damage claims resulting from delays in completing suspicious transactions. There is no requirement for banks to report large currency transactions, unless they are suspicious. The Austrian financial intelligence unit (AFIU) is, however, providing information to banks to raise awareness of large cash transactions.

Since October 2003, tighter identification procedures, requiring all customers appearing in person to present an official photo ID, have been adopted by financial institutions. These procedures also apply to trustees of accounts, who are now required to disclose the identity of the account beneficiary. However, the new procedures still allow customers to carry out non face-to-face transactions, including Internet banking, on the basis of a copy of a picture ID.

Some years ago the Government of Austria (GOA) was brought to task by the Financial Action Task Force (FATF) and the European Union (EU) for the existence of anonymous numbered passbook savings accounts. The Austrians temporarily "grandfathered" existing accounts, but they have nearly all been closed in the meantime. Since 2000 new passbook savings accounts and deposits to existing accounts require customer identification.

The Banking Act includes a due diligence obligation, and individual bankers are held legally responsible if their institutions launder money. In addition, banks have signed a voluntary agreement to prohibit active support for capital flight. On November 26, 2001, the Federal Economic Chamber's banking and insurance department, in cooperation with all banking and insurance associations, published an official "Declaration of the Austrian Banking and Insurance Industries to Prevent Financial Transactions in Connection with Terrorism."

Amendments to the Austrian Gambling Act and the Business Code, taking effect June 15, 2003, introduces money laundering regulations regarding identification, record keeping, and reporting of suspicious transactions for dealers in high-value goods such as precious stones or metals, or works of art; auctioneers; and real estate agents; as well as for casinos and dealers. Amendments to the Austrian law governing lawyers and notaries took effect October 29, 2003, subjecting lawyers and notaries to money laundering and terrorism financing provisions. Similar regulations, including prohibitions on money laundering, became effective Jan. 1, 2004 for certified public accountants and auditors.

The Banking Act created the AFIU, formerly known as EDOK) within the Interior Ministry. In 2002, the AFIU was absorbed as one section of the newly established Austrian Bundeskriminalamt (Federal Crime Office). AFIU continues to serve as the central repository of suspicious transaction reports. During the first eleven months of 2003, banks reported 264 suspicious transactions, and fielded 107 requests from Interpol and 73 requests from the Egmont Group for information. This represents a slight increase from the 215 suspicious transactions reported by banks in 2002, which led to seven convictions for money laundering. In 2001, 248 suspicious transactions were filed, resulting in four convictions for money laundering. Criminals are often convicted for other crimes, however, with money laundering serving as additional grounds for conviction.

Legislation implemented in 1996 allows for asset seizure and the forfeiture of illegal proceeds. The banking sector generally cooperates with law enforcement efforts to trace funds and seize illicit assets. The distinction between civil and criminal forfeiture in Austria is different from the U.S. legal system. However, Austria has regulations in the Code of Criminal Procedure that are similar to civil forfeiture, such as forfeiture in an independent procedure. Courts may freeze assets in the early stages of an investigation. However, there is little evidence of enforcement to date, as law enforcement units tend to be understaffed. In the first eleven months of 2003, Austrian courts froze assets worth 2.2 million euros, and banks temporarily postponed transactions totaling 350,938 euros, under instructions from the AFIU. This is lower than the 8.1 million euros in assets frozen by the courts in 2002, and the 22.5 million euros frozen in 2001.

The amended Extradition and Judicial Assistance Law provides for expedited extradition, expanded judicial assistance, and acceptance of foreign investigative findings in the course of criminal investigations, as well as enforcement of foreign court decisions. Austria has strict banking secrecy regulations, though bank secrecy will be lifted for cases of suspected money laundering. Moreover, bank secrecy does not apply in cases when banks and other financial institutions are required to report suspected money laundering. Such cases are subject to instructions of the authorities (i.e., AFIU) with regard to processing such transactions.

The Criminal Code Amendment 2002, effective October 1, 2002, introduces the following new criminal offense categories: terrorist grouping, terrorist criminal activities, and financing of terrorism. "Financing of terrorism" is defined as a separate criminal offense category in the Criminal Code, punishable in its own right. Terrorism financing is also included in the list of criminal offenses subject

to domestic jurisdiction and punishment, regardless of the laws where the act occurred. Further, the money laundering offense is expanded to terrorist groupings. The law also gives the judicial system the authority to identify, freeze, and seize terrorist financial assets. With regard to terrorism financing, forfeiture regulations cover funds collected or held available for terrorism financing, and permit freezing and forfeiture of all assets that are in Austria, regardless of the place of the crime and the whereabouts of the criminal. The Austrian authorities have circulated to all financial institutions the list of individuals and entities included on the UN 1267 Sanctions Committee's consolidated list and those designated by the United States or the EU. According to the Ministry of Justice and the AFIU, no accounts found in Austria ultimately showed any links to terrorist financing. After September 11, 2001, the AFIU froze several accounts on an interim basis, but in trying to establish evidence, only two accounts were designated for seizure. Both later turned out to be cases of mistaken identity.

As of January 1, 2004, money remittance businesses will require a banking license from the Financial Market Authority and will be subject to supervision. Informal remittance systems like hawala do exist in Austria, but are subject to administrative fines for carrying out banking business without a license.

The GOA has undertaken some initial efforts that may help thwart the misuse of charitable and/or nonprofit entities as conduits for terrorist financing. The new law on associations (Vereinsgesetz, published in Federal Law Gazette No. I/66 of April 26, 2002) came into force on July 1, 2002, and covers charities and all other nonprofit associations in Austria (including religious associations, sports clubs, etc.). Materially, the new law is very similar to the old law, but it does call for record keeping and auditing on the part of nonprofit entities. The Vereinsgesetz regulates the establishment of associations, bylaws, organization, management, association register, appointment of auditors, and detailed accounting requirements. The Ministry of Interior's responsibility is limited to approving the establishment of associations, regardless of the purpose of the association, unless it violates legal regulations. There are no regular or routine checks made on associations established in Austria. Only in case of complaints will the Interior Ministry start investigations and, in case of serious violations of laws, it may officially prohibit the association from operating. In 2003, the GOA took additional steps to implement the FATF's Eight Special Recommendations on Terrorist Financing, by its amending of the Banking Act. Austria has not implemented certain aspects of the recommendations regarding nonprofit organizations and wire transfers, because it is waiting on wider agreement on the necessary procedures.

Austria has not enacted legislation that provides for sharing forfeited narcotics-related assets with other governments. However, mutual legal assistance treaties (MLATs) can be used as an alternative vehicle to achieve equitable distribution of forfeited assets. As of July 2003, Austria became a party to the MLAT between the EU and the U.S. The U.S. Government and the GOA are working on implementing regulations for this treaty to supplement the bilateral MLAT between the GOA and the United States which has been in force since August 1, 1998, and which contains a provision on asset sharing. The GOA has been extremely cooperative with U.S. law enforcement investigations. The Austrian FMA and the Office of the Comptroller of the Currency are negotiating a bilateral agreement regarding bank supervision information exchange (including on-site examinations in the host country). Austria has a bilateral agreement with Hungary concerning the exchange of information related to money laundering. In addition to the exchange of information with home country supervisors permitted within the EU, Austria has defined this information exchange more precisely in agreements with five other EU members (France, Germany, Italy, Netherlands, and UK) and with the Czech Republic, Hungary, and Slovenia.

Austria is a party to the 1988 UN Drug Convention and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. In December 2000, Austria signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. Austria ratified the UN International Convention for the Suppression of the Financing of Terrorism on April 15, 2002. Austria has endorsed fully the Basel Committee's "Core Principles for Effective

Banking Supervision". Austria is a member of the FATF. Austria is also a member of the EU, and is an observer with the Council of Europe's select committee of experts on the evaluation of anti-money laundering measures (MONEYVAL). The AFIU is a member of the Egmont Group.

The GOA has criminalized money laundering for all serious crime and passed additional legislation necessary to construct a viable anti-money laundering regime. Austria is very cooperative with U.S. authorities in money laundering cases. But some improvements could still be made. There remains a need for identification procedures for customers in "non-face to face" banking transactions. The criminal code should be amended to penalize negligence in reporting money laundering and terrorism financing transactions. The AFIU should be provided with sufficient resources to adequately perform its functions. AFIU and other government personnel should be protected against damage claims because of delays in completing suspicious transactions. Additionally, the GOA should adequately regulate its charitable and nonprofit entities to reduce their vulnerability to misuse by criminal and terrorist organizations and their supporters.

## Azerbaijan

Azerbaijan is not considered a major center for international money laundering, given its small, underdeveloped banking sector. It is difficult, however, to determine the extent of the problem, due to existing bank secrecy laws and the number of "pocket banks." The large number of cash transactions, as well as the legacy of corruption and tax evasion, compounds the problem.

The Government of Azerbaijan (GOAJ) criminalized money laundering relating to narcotics trafficking in 2000. Additionally, Parliament has made amendments to its banking and currency laws to prevent money laundering activities. In November 2001, Azerbaijan established a threshold sum of $50,000 for reporting to its Customs agency currency transfers abroad. Funds transfers abroad in excess of $10,000 must have approval of the National Bank of Azerbaijan (NBA).

In May 2003, the GOAJ established an inter-ministerial experts group responsible for drafting anti-money laundering and antiterrorist finance legislation. The experts group, led by the National Bank of Azerbaijan, is preparing a proposal to the government on anti-money laundering legislation that would include establishment of a Financial Intelligence Unit (FIU) and would expand the predicate crimes for money laundering beyond narcotics trafficking.

The NBA issues licenses and supervises commercial banks, foreign exchange offices and money remitters. To further its regulatory role, it issues binding regulations for the banking sector; however, neither regulations nor guidance notes have been issued specifically addressing anti-money laundering measures. Numbered accounts are allowed. The NBA has issued "know your customer" directives to banks. The requirements include identification procedures and record keeping. Similar rules do not apply to the insurance or securities sectors. There is no requirement to report suspicious transactions, although some banks voluntarily report such transactions to the NBA.

The Ministry of Finance supervises insurance companies. The Insurance Department at the Ministry follows the anti-money laundering program coordinated by the NBA. The Ministry conducts annual audits of insurance companies; one of the objectives of the audit is to check for money laundering activity. The State Securities Committee, which regulates the securities market, has issued anti-money laundering directives. However, implementation is weak due to the large number of cash transactions and the reliance on the banks' due diligence for some pre-funded transactions.

Article 214-1 of Azerbaijan's Criminal Code criminalizes the financing of terrorism. The NBA distributes the lists of individuals and entities prepared in accordance with U.S. Executive Order 13224 and pursuant to UNSCRs 1267 and 1390. To date, NBA has identified and frozen the assets of at least one designated entity.

The GOAJ does not have in place a formalized regime to seize and confiscate assets. Investigators can issue seizure orders in urgent cases with no subsequent judicial approval necessary. The NBA has the authority to freeze accounts, but freezing without delay cannot be done readily. Confiscation of assets is an optional action in prosecutions. Mutual legal assistance is limited to narcotics-related offenses.

Azerbaijan is party to the 1988 UN Drug Convention. In October 2001, Azerbaijan ratified the UN International Convention for the Suppression of the Financing of Terrorism. In November 2001, Azerbaijan signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. In 2003, Azerbaijan ratified the UN Convention against Transnational Organized Crime. Azerbaijan submitted the Financial Action Task Force (FATF) Terrorist Finance Self-Assessment Questionnaire in October 2002. In May 2003, Azerbaijan was the subject of a mutual evaluation by the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), of which it is a member.

The GOAJ should enact anti-money laundering legislation that establishes a viable anti-money laundering regime, to include expansion of the definition of money laundering beyond narcotics trafficking, reporting suspicious transactions to a financial intelligence unit and the establishment of appropriate mechanisms to seize, freeze and confiscate assets without delay. Additionally, the GOAJ should provide awareness programs and training to its law enforcement and prosecutorial agencies.

## Bahamas

The Commonwealth of the Bahamas is an important regional and offshore financial center. Financial services account for approximately 15 percent of the gross domestic product. The U.S. dollar circulates freely in the Bahamas, and is accepted everywhere on a par with the Bahamian dollar. Money laundering in the Commonwealth of the Bahamas is mostly related to the proceeds of cocaine and marijuana trafficking; the proceeds of such funds have been linked to numerous Bahamian drug trafficking organizations. A substantial portion of laundered funds is also likely related to financial fraud. According to the Royal Bahamas Police Force (RBPF), two trends characterized money laundering in the Bahamas in 2002: an increasing use of professionals in the business and financial sectors; and the prevalent use of cash-intensive businesses, such as restaurants, small hotels, bars, nightclubs, retail outlets, construction companies, and concert performances, as fronts for commingling illegal gains with legitimate receipts. The RBPF listed several "less creative" money laundering methods employed in the Bahamas, including purchasing of vehicles; placing properties and assets in the names of family members; and attempting to smuggle money into the Caribbean and the United States in boxes, luggage, or strapped to the body.

The Central Bank of the Bahamas Act 2000 expanded the powers of the Central Bank to enable it to respond to requests for information from overseas regulatory authorities, and gave the Bank's Governor the right to deny licenses to banks or trust companies he deems unfit to transact business in the Bahamas. During 2001, the Governor revoked the licenses of 55 of these banks, including the British Bank of Latin America and the Federal Bank, both identified in a U.S. Senate report as being at high risk of involvement in money laundering, and Al-Taqwa Bank, which in October 2001 was placed on the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224 (on terrorist financing). The number of banks and trusts declined from 415 in 1999 to 301 in 2003 due to the Central Bank's requirement that "managed banks" (those without a physical presence but which are run by an agent such as a lawyer or another bank) either establish a physical presence in the Bahamas (an office, separate communications links, and a resident director) or cease operations.

The Bahamas has two casinos in Nassau and one in Freeport/Lucaya, and a fourth is scheduled to open in January 2004 as part of a new resort in Exuma. Cruise ships that overnight in Nassau may operate

casinos. There are reported to be over 10 Internet gaming sites based in the Bahamas. Under Bahamian law, Bahamian residents cannot gamble in the casinos.

A total of 2,529 international business companies (IBCs) were incorporated in the Bahamas from January to August 2003, which is a decrease of 13.5 percent from 2002. By August 2003, the Government of the Commonwealth of the Bahamas (GCOB) had grossed approximately $16.59 million from IBCs. The International Business Companies Act 2000 eliminated anonymous ownership of IBCs by prohibiting bearer shares and imposing know your customer (KYC) requirements. As a result, the Bahamas became less attractive to both potential and existing IBC owners.

During 2001, the GCOB implemented legislative reforms that strengthened its anti-money laundering regime and made it less vulnerable to exploitation by money launderers and other financial criminals. As a result, in June 2001, the Financial Action Task Force (FATF) removed the Bahamas from the list of noncooperative countries and territories in the fight against money laundering (NCCT). The United States and Canada also withdrew financial advisories for the Bahamas. Although the Bahamas was removed from the NCCT list, the FATF continues to monitor the progress of the Bahamas in implementing its anti-money laundering regime. During 2003, the GCOB's implementation and enforcement of legislative reforms progressed; however, the GCOB continues to face international criticism in regard to the effectiveness and speed with which these measures are being implemented and its response to international requests for assistance.

The Financial Transaction Reporting Act 2000 requires financial institutions (such as banks and trusts, insurance companies, real estate brokers, casino operators, and others which hold or administer accounts for clients) to verify the identity of account holders. The Act also requires financial institutions to report suspicious transactions to the financial intelligence unit (FIU) and the police. The Act furthermore establishes KYC requirements. By December 31, 2001, financial institutions were obliged to verify the identities of all their existing account holders and of customers without an account conducting transactions over $10,000. All new accounts established in 2001 or later have to be in compliance with KYC rules before they are opened. As of October 2002, only 42 percent of holders of existing accounts had been verified. From their introduction, the KYC requirements caused complaints by Bahamians who were unable to produce adequate documentation when attempting to open accounts in domestic banks. (The absence of house numbers on most Bahamian streets, the prevailing practice of utility companies issuing bills only in the name of landlords rather than tenants, and the scarcity of picture identification among Bahamians contributed to these documentation problems.) Some Bahamian bankers contend that under the strengthened anti-money laundering regulations, it is more difficult to make deposits in a Bahamian bank than in other jurisdictions.

In October 2002, the Minister of Financial Services and Investments, a post created by the Progressive Liberal Party government elected in April 2002, lamented that the rigid, overly prescriptive requirements of the KYC rules had caused financial institutions to harass long-standing, well-known clients for documents, and observed that those rules had been applied to accounts of low-risk customers, including pensioners, whose opportunities for money laundering were minimal. The GCOB declined banking officials' recommendations to apply a risk-based approach to "grandfather" Bahamas-based accounts considered to be in compliance, and instead extended the compliance deadline, yet again, to April 1, 2004.

In 2002, the Bahamian Court of Appeal reversed a controversial lower court decision that had held unconstitutional a provision of the FIU Act 2000, which created Bahamas' FIU. The appellate decision confirmed the power of the FIU to freeze a financial account without first obtaining a court order. The plaintiff, a British Virgin Islands firm, Financial Clearing Corporation, did not pursue a possible appeal to the Judicial Committee of the Privy Council in London.

The Tracing and Forfeiture/Money Laundering Investigation Section of the Drug Enforcement Unit of the RBPF is the primary financial law enforcement agency in the Bahamas, with the responsibility for

investigating suspicious transaction reports received from the FIU. This agency is also responsible for investigating all reports of money laundering received from law enforcement agencies or the public, matters of large cash seizures, and local drug traffickers and other serious crime offenders, to determine whether they benefited from their criminal conduct. Police authorities confirm that the increased tightening of the rules on financial services is paying-off as it has driven drug traffickers to keep cash in their homes and vehicles, as supported by police seizures of more than $2.8 million in 2003.

In October 2003, the GCOB introduced the "Terror Bill" in Parliament to discourage terrorist financing. If enacted, the bill will place the Bahamas in compliance with international counterterrorism conventions and would obligate Bahamian law enforcement agencies to forfeit or confiscate assets. The bill also includes measures that criminalize providing financial or other related services for the commission of terrorist acts; providing, collecting, or making available property to commit terrorist acts; and knowingly entering into arrangements which facilitate the acquisition, retention, or control by or on behalf of another person or terrorist, whether by concealment, removal out of the jurisdiction, or any other way.

As a matter of law, the GCOB seizes assets derived from international drug trade and money laundering. Over the years, joint U.S./GCOB investigations have resulted in the seizure of cash, vehicles and boats. These seizures are in the custody of the GCOB. Some are in the process of confiscation while some remain uncontested. The Attorney General's Office is preparing a protocol to guide the utilization of narcotics-related confiscated assets. In June 2003, the Embassy requested of the GCOB a list of the status of these assets and offered assistance in putting it together. The GCOB has not yet provided this listing.

There are currently more than 20 U.S. extradition requests pending resolution with the GCOB, which all involve money laundering and drug smuggling offenses. A 1994 U.S.-Bahamas treaty permits the extradition of Bahamian nationals to the U.S. However, defendants can appeal a magistrate's decision at local court and, subsequently, to the Privy Council in London. The Bahamas has a Mutual Legal Assistance Treaty with the United States, which entered into force in 1990, and also has agreements with the United Kingdom and Canada. The Attorney General has established the Office for International Affairs. The unit, charged with managing multilateral information exchange requests, has come into criticism by its international partners for the paucity with which it responds to requests for financial information on suspected money launderers and drug traffickers. Such criticism was echoed during a meeting in October 2003 of the America's Review Group of the FATF. The GCOB has since re-doubled efforts to reduce the back log of information requests.

The Bahamas FIU became a member of the Egmont Group in June 2001. The Bahamas FIU has signed memorandums of understanding with the FIUs of Belgium and Guatemala to exchange information. The Bahamas FIU has also approached the FIU of Aruba and the Netherlands Antilles to begin drafting a memorandum of understanding. As a result of the Financial Intelligence Unit (Amendment) Act 2001, the FIU is now able to cooperate and render assistance to any foreign FIU that performs functions similar to the Bahamas FIU. During 2003, the FIU continued to share financial information with its foreign counterparts.

On October 2, 2001, the Bahamas signed, but has not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism. In April 2001, the Bahamas signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. The Bahamas is a party to the 1988 UN Drug Convention, chaired the Caribbean Financial Action Task Force (CFATF) in 2003, and is a member of the Offshore Group of Banking Supervisors.

The GCOB has enacted substantial reforms that could reduce its financial sector's vulnerability to money laundering; however, it must steadfastly and effectively implement those reforms. The GCOB should continue to further its anti-money laundering efforts by criminalizing the financing of terrorists

and terrorism. The Bahamas should provide adequate resources to its law enforcement and prosecutorial/judicial personnel to ensure investigations and prosecutions are satisfactorily completed and requests for international cooperation are efficiently processed.

## Bahrain

Bahrain has one of the most diversified economies in the Gulf Cooperation Council (GCC). Unlike its neighbors, oil accounts for only 18 percent of Bahrain's gross domestic product (GDP). Bahrain has promoted itself as an international financial center in the Gulf region. It hosts a mix of 355 diverse financial institutions, including 183 banks of which 51 are offshore banking units (OBUs), 34 investment banks, of which 16 specialize in Islamic banking, and 22 commercial banks, of which 14 are foreign owned. In addition, there are 34 representative offices of international banks, 17 money changers, four money brokers, and several other investment institutions, including 80 insurance companies and 13 capital market brokerages. The vast network of its banking system, along with its geographical location in the Middle East as a transit point along the Gulf and into Southwest Asia, may attract money laundering activities. It is thought that the greatest risk of money laundering stems from questionable foreign proceeds that transit Bahrain.

In January 2001, the Government of Bahrain (GOB) enacted a new anti-money laundering law that criminalizes the laundering of proceeds derived from any predicate offense. The law stipulates punishment of up to seven years in prison, and a fine of up to one million dinars ($2.65 million) for convicted launderers and those aiding or abetting them. If organized criminal affiliation, corruption, or disguise of the origin of proceeds is involved, the minimum penalty is a fine of at least 100,000 dinars (approximately $265,000) and a prison term of not less than five years.

Following enactment of the law, the Bahrain Monetary Agency (BMA), as the principal regulator, issued regulations requiring financial institutions to report suspicious transactions, to maintain records for a period of five years, and to provide ready access to account information to law enforcement officials. Immunity from criminal or civil action is given to those who report suspicious transactions. Even prior to the enactment of the new anti-money laundering law, financial institutions were obligated to report suspicious transactions greater than 6,000 dinars (approximately $15,000) to the BMA.

The law also provides for the formation of an interagency committee to oversee Bahrain's anti-money laundering regime. Accordingly, in June 2001, the National Anti-Money Laundering Policy Committee was established and assigned the responsibility for developing anti-money laundering policies and guidelines. The committee, which is under the chairmanship of the Undersecretary of Finance and National Economy, includes members from the BMA, the Bahrain Stock Exchange, and the Ministries of Finance and National Economy, Interior, Justice, and Commerce, Labor and Social Affairs, and Foreign Affairs. The law further provides additional powers of confiscation, and allows for better international cooperation.

The law also provides for the creation of a financial intelligence unit (FIU), known as the Anti-Money Laundering Unit (AMLU), which is housed in the Ministry of Interior. AMLU is empowered to receive reports of money laundering offenses; conduct investigations; implement procedures relating to international cooperation under the provisions of the law; and execute decisions, orders, and decrees issued by the competent courts in offenses related to money laundering. Bahrain's AMLU was granted membership into the Egmont Group of FIUs in July 2003.

The AMLU receives suspicious transaction reports (STRs) from banks and other financial institutions, investment houses, broker/dealers, money changers, insurance firms, real estate agents, gold dealers, financial intermediaries, and attorneys. Financial institutions must also file STRs with the BMA, which supervises these institutions. However, BMA does not do analyses of the STRs---it maintains

records of them, and may call a particular STR to the attention of AMLU if it seems particularly noteworthy. AMLU is the sole Bahraini agency that analyzes STRs. There is reportedly good cooperation between BMA and AMLU. Both agencies describe the double filing of STRs as a backup system.

There are 52 BMA-licensed offshore banking units (OBUs) that are branches of international commercial banks. OBUs are prohibited from accepting deposits from citizens and residents of Bahrain, and from undertaking transactions in Bahraini dinars (with certain exemptions, such as dealings with other banks and government agencies). In all other respects, OBUs are regulated and supervised in the same way as is the domestic banking sector. They are subject to the same regulations, on-site examination procedures, and external audit and regulatory reporting obligations.

Bahrain law permits the formation of offshore resident companies and offshore nonresident companies that are formed as international business companies (IBCs). Resident companies must have an office within Bahrain, a minimum capital of $54,000, and a license from the BMA, in order to conduct financial activities. All IBCs that conduct insurance-related business in Bahrain are subject to supervision of the BMA.

In November 2001, Bahrain signed the UN International Convention for the Suppression of the Financing of Terrorism. Ratification of the Convention was approved by the Bahrain Parliament in December 2003 and is expected to pass into law in early 2004. The BMA in January 2002 issued a circular implementing the FATF Special Eight Recommendations on Terrorist Financing as part of the BMA's AML regulations, and subsequently froze two accounts designated by the UN 1267 Sanctions Committee and one account listed under U.S. Executive Order 13224.

BMA Circular BC/1/2002 states that money changers may not transfer funds for customers in another country by any means other than Bahrain's banking system, under penalty of legal sanctions. In addition, all BMA licensees are required to include details of originator's information with all outbound transfers. With respect to incoming transfers, licensees are required to maintain records of all originator information and to carefully scrutinize inward transfers that do not contain originator's information, as they are presumed to be suspicious transactions. Licensees that suspect, or have reasonable grounds to suspect, that funds are linked or related to suspicious activities—including terrorist financing—are required to file suspicious transaction reports (STRs). Licensees must maintain records of the identity of their customers in accordance with the agency's money laundering regulations, as well as the exact amount of transfers.

Decree No. 21 of 1989 governs the licensing of nonprofit organizations. The Ministry of Labor and Social Affairs (MLSA) is responsible for licensing and supervising the charity organization in Bahrain. As part of its efforts to strengthen the regulatory environment and fight potential terrorist financing, Bahrain's Cabinet approved a draft document in December 2003 to regulate the collection of donated funds through charities and their eventual distribution, to help confirm the charities' sole humanitarian objectives. The regulations are aimed at tracking money that is entering and leaving the country. The new regulations will require organizations to keep records of sources and uses of financial resources, organizational structure, and membership. Charitable societies will also be required to deposit their funds with banks located in Bahrain. MLSA has the right to inspect records of the societies to insure their compliance with the laws.

Bahrain is a leading Islamic finance center in the region. The sector has grown considerably since the licensing of the first Islamic bank in 1979. Bahrain has 26 Islamic banks and financial institutions. Given the large share of such institutions in Bahrain's banking community, BMA is working to create an appropriate framework for regulating and supervising the Islamic banking sector, applying regulations and supervision as it does with respect to conventional banks. In March 2002, the BMA introduced a comprehensive set of regulations for Islamic banks called the Prudential Information and

Regulatory Framework for Islamic Banks (PIRI). The framework was designed to monitor certain banking aspects, such as capital requirements, governance, control systems, and regulatory reporting.

Bahrain has demonstrated a commitment to put in place a strong anti-money laundering regime and is determined to engage its large financial sector in this effort. The government should follow through by aggressively enforcing the law and developing and prosecuting anti-money laundering cases. Its officials have attended and should continue to attend orientation and training sessions in Bahrain and international locations. The AMLU should continue with its efforts to gain the necessary expertise in tracking suspicious transactions and in investigating and initiating investigations in money laundering offenses.

## Bangladesh

Bangladesh is not an important regional financial center. There are no indications that substantial funds are laundered through the official banking system. The principal money laundering vulnerability remains the widespread use of the underground hawala or hundi system to transfer value outside the formal banking network. The vast majority of hawala transactions in Bangladesh are used to repatriate wages from Bangladeshi workers abroad. However, the hawala system is also used to avoid taxes, customs duties and currency controls and as a compensation mechanism for the significant amount of goods smuggled into Bangladesh. Traditionally, trade goods provide countervaluation in hawala transactions. An estimated $1 billion dollars of dutiable goods are smuggled every year from India into Bangladesh. There is a comparatively small amount of goods smuggled out of the country into India. As a result, there is a concomitant flow of hard currency or other assets out of Bangladesh to support the smuggling networks. Corruption is a major area of concern in Bangladesh. The nonconvertibility of the local currency (the taka) coupled with intense scrutiny on foreign currency transactions in formal financial institutions also contribute to the popularity of hawala and money exchange through the black market. Money exchanges outside the formal banking system are illegal. Offshore financial accounts are not permitted in Bangladesh. During the last year, there has been a significant increase in the amount of money transferred through the formal banking system as a result of the efforts by the Bangladesh Government to increase the efficiency of the process.

Money laundering is a criminal offense. In April 2002, Bangladesh enacted the Money Laundering Prevention Act (MLPA) that applies to all forms of money laundering. The MLPA authorizes the country's Central Bank, the Bangladesh Bank, to supervise the activities of banks, investigate all offenses related to money laundering, and take appropriate steps to address any problems. The MLPA requires financial institutions to accurately identify customers and to report suspicious transactions to Bangladesh Bank. The MLPA requires financial institutions to preserve customer information while an account is open and for five years from the date the account is closed. Financial institutions must supply this information to Bangladesh Bank upon request and inform the Central Bank of any suspicious transactions. The MLPA imposes penalties for money laundering and allows the Bangladesh Bank to fine financial institutions no more than 100,000 taka (less than $2000) for failure to retain or report the required data on suspicious transactions. Banks in Bangladesh are still establishing implementing procedures and "know your customer" practices as required by the MLPA. Since Bangladesh does not have a national identify card and because most Bangladeshis do not have a passport, there are difficulties in enforcing customer identification requirements. In most cases, banking records are maintained manually with little support technology. Accounting procedures used by Bangladesh Bank may not in every respect achieve international standards. Bangladesh does not have "due diligence" or "banker negligence" laws that make individual bankers responsible if their institutions launder money.

Bangladesh does not have a Financial Intelligence Unit (FIU). However, the Money Laundering Prevention Department of Bangladesh Bank acts as a defacto FIU and would act to seize assets. During the last year, there have been three or four arrests under the MLPA but no prosecutions for money laundering.

Bangladeshis are not allowed to take more than 3,000 taka (approximately $50) out of the country. There is no limit as to how much currency can be brought into the country, but amounts over $5,000 must be declared. Customs is primarily a revenue collection agency, accounting for 40-50 percent of annual Bangladesh government income.

Bangladesh does not have a law that makes terrorist financing a crime. In 2003, Bangladesh froze a nominal sum in an account of a designated entity on the UN 1267 Consolidated List and identified an empty account of another entity. Bangladesh has not signed the UN International Convention for the Suppression of the Financing of Terrorism. Bangladesh is a party to the 1988 UN Drug Convention, and is a member of the Asia/Pacific Group on Money Laundering.

Bangladesh should criminalize terrorist financing. It should also create a centralized FIU to receive suspicious transaction reports and disseminate information to law enforcement. Customs and law enforcement agencies should be more cognizant of money laundering in general and trade-based money laundering specifically. Judicial and prosecutorial reforms will be necessary to counteract case backlog and current lengthy delays in dispensing justice.

## Barbados

As a transit country for illicit narcotics, Barbados is both attractive and vulnerable to money launderers. The Government of Barbados (GOB) has taken a number of steps in recent years to strengthen its anti-money laundering regime.

As of November 2003, the Barbados financial sector consists of 6 domestic banks and 56 offshore banks that are regulated and supervised by the Central Bank. In 2003, the Central Bank estimated that there is approximately $32 billion worth of assets in Barbados' offshore banks. The offshore sector also includes 4,673 international business companies (IBCs), 453 exempt insurance companies, and 2,789 foreign sales corporations (FSCs), which are specialized companies that permit persons to engage in foreign trade transactions from within Barbados. The Foreign Sales Corporation Act, which authorizes establishment of FSCs, was repealed in 2000.

The GOB initially criminalizes drug money laundering in 1990 through the Proceeds of Crime Act, No. 13, which also authorizes asset confiscation and forfeiture, permits suspicious transaction disclosures to the Director of Public Prosecutions, and exempts such disclosures from civil or criminal liability. The Money Laundering (Prevention and Control) Act 1988 (MLPCA) criminalizes the laundering of proceeds from unlawful activities that are punishable by at least one year's imprisonment. The MLPCA makes money laundering punishable by a maximum of 25 years in prison and a maximum fine of Barbadian dollars (BDS) 2 million (approximately $1 million).

The MLPCA applies to a wide range of financial institutions, including domestic and offshore banks, international business companies (IBCs) and insurance companies. These institutions are required to identify their customers, cooperate with domestic law enforcement investigations, report and maintain records of all transactions exceeding BDS 10,000 (approximately $5,000), and report suspicious transactions to the Anti-Money Laundering Authority (AMLA), established in August 2000 to supervise financial institutions' compliance with the MLPCA and issue training requirements and regulations for financial institutions. Financial institutions must also establish internal auditing and compliance procedures.

The definition of a financial institution was widened in an amendment to the MLPCA in 2001 to include "any person whose business involves money transmission services, investment services, or any other services of a financial nature." This amendment was designed to bring entities other than traditional financial institutions into the class of persons or institutions that are supervised by the AMLA, and therefore are subject to the requirements of the MLPCA.

The International Business Companies Act (1992) provides for general administration of IBCs. The Ministry of International Trade and Business vets and grants licenses to IBCs after applicants register with the Registrar of Corporate Affairs. Bearer shares are not allowed and financial statements of IBCs are audited if total assets exceed $500,000. The 2001 International Business (Miscellaneous Provisions) Act required more information than previously to be provided by IBC license applicants or renewals to enhance due diligence efforts by the GOB.

The Barbados Central Bank's 1997 Anti-Money Laundering Guidelines for Licensed Financial Institutions were revised in 2001. The revised Know Your Customer Guidelines were issued in conjunction with the AMLA, and provide detailed guidance to financial institutions regulated by the Central Bank. The Central Bank undertakes regular on-site examinations of licensees and applies a comprehensive methodology that seeks to assess the level of compliance with legislation and guidelines.

The Offshore Banking Act (1985) gives the Central Bank authority to supervise and regulate offshore banks, in addition to domestic commercial banks. The International Financial Services Act replaced the 1985 Act in June 2002 in order to incorporate fully the standards established in the Basel Committee's "Core Principles for Effective Banking Supervision." The new law provides for on-site examinations of offshore banks. This allows the Central Bank to augment its off-site surveillance system of reviewing anti-money laundering policy documents and analyzing prudential returns. The Central Bank may also refer suspicious activity reports (SARs) to the Barbados financial intelligence unit (FIU). The Ministry of Finance issues banking licenses after the Central Bank receives and reviews applications, and recommends applicants for licensing. Offshore banks must submit quarterly statements of assets and liabilities and annual balance sheets to the Central Bank.

Supervision of the financial sector is shared among the Central Bank; the Ministry of Commerce, Consumer Affairs, and Business Development; the Supervisor of Insurance; the Registrar of Cooperatives; and the Barbados Securities Commission. The aforementioned agencies also supervise compliance with the MLPCA and AMLA. The GOB announced in 2003 that it is considering a consolidation of financial supervision, in which the Central Bank would retain bank supervision and a financial services commission would regulate other financial services.

The FIU, located within the AMLA, was established in September 2000. The FIU was first established by administrative order, but subsequently implemented in statute by the MLPCA (Amendment) Act, 2001. The FIU is fully operational. By the end of October 2003, the FIU had received 29 SARs. The FIU forwards information to the Financial Crimes Investigation Unit of the police if it has reasonable grounds to suspect money laundering. The GOB cooperated with the U.S. law enforcement on a significant organized crime money laundering case in 2003.

The MLPCA also provides for asset seizure and forfeiture. In November 2001, the GOB amended its financial crimes legislation to shift the burden of proof to the accused to demonstrate that property in his or her possession or control is derived from a legitimate source. Absent such proof, the presumption is that such property was derived from the proceeds of crime. The law also enhances the GOB's ability to freeze bank accounts and to prohibit transactions from suspect accounts.

The Barbados Anti-Terrorism Act, 2002-6, Section 4, gazetted on May 30, 2002, criminalizes the financing of terrorism. The GOB circulates lists of terrorists and terrorist entities to all financial institutions in Barbados. During 2003, no evidence of terrorist financing was discovered in Barbados.

The GOB has not taken any specific initiatives focused on alternative remittance systems or the misuse of charitable and nonprofit entities.

Barbados has bilateral tax treaties that eliminate or reduce double taxation with the United Kingdom, Canada, Finland, Norway, Sweden, Switzerland, and the United States. The U.S. and the GOB discussed amendments to their bilateral tax treaty in 2003. The treaty with Canada currently allows IBCs and offshore banking profits to be repatriated to Canada tax-free after paying a much lower tax in Barbados. A Mutual Legal Assistance Treaty and an Extradition Treaty between the U.S. and the GOB each entered into force in 2000. Barbados is a member of the Offshore Group of Banking Supervisors, the Caribbean Financial Action Task Force, and the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. The FIU was admitted to the Egmont Group in 2002. Barbados is a party to the 1988 UN Drug Convention. Barbados signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. Barbados is a party to the UN International Convention for the Suppression of the Financing of Terrorism. The Barbados Association of Compliance Professionals, along with the Compliance Associations from Trinidad and Tobago, the Bahamas, the Cayman Islands, and the British Virgin Islands, formed the Caribbean Regional Compliance Association in October 2003.

The GOB should maintain strict control over vetting and licensing of offshore entities. The GOB should continue to provide resources to its FIU and the AMLA in order to continue strengthening its efforts to prosecute and convict money launderers.

## Belarus

Belarus is not a regional financial center. A general lack of transparency in industry and banking sectors makes it difficult to assess the level of or potential for money laundering and other financial crimes. Belarus faces problems with organized crime and therefore is potentially vulnerable to money laundering. Due to persistent inflation and a high level of dollarization of the economy, a significant volume of foreign-currency cash transactions eludes the banking system. Casinos and gaming establishments are abundant. Economic decision-making in Belarus is highly concentrated within the top levels of government. Government agencies have broad powers to intervene in the management of public and private enterprises.

In July 2000, Belarus' Law on Measures to Prevent the Laundering of Illegally Acquired Proceeds (AML Law) entered into force. The present version of the law was last amended on January 4, 2003. According to Government of Belarus (GOB) officials, the AML Law criminalizes drug and nondrug related money laundering, although this is not explicitly stated in the law. Article 235 of the Belarusian criminal code ("Legalization of illegally acquired proceeds") stipulates that money laundering crimes may be punishable by fine or prison terms of up to ten years. The law defines "illegally acquired proceeds" as money (Belarusian or foreign currency), securities or other assets, including property rights and exclusive rights to intellectual property, obtained in violation of the law.

The AML measures described in the law apply to all entities able to conduct financial transactions in Belarus. Such entities include bank and nonbank credit and finance institutions; stock and currency exchanges; investment funds and other professional dealers in securities; insurance and reinsurance institutions; dealers' and brokers' offices; notarial offices (notaries); casinos and other gambling establishments; pawn shops; and other organizations conducting financial transactions. Under the law, natural and legal persons, government entities, and entities without legal status are subject to criminal liability.

The AML Law authorizes the following government bodies to monitor financial transactions for the purpose of preventing money laundering: the State Control Committee; the Ministry of Foreign Affairs; the Ministry of State Property and Privatization; the Ministry of Finance; the National Bank;

the State Committee for Financial Investigations; the National Tax Inspectorate; the State Committee for Securities; the State Customs Committee; and other State bodies. The law does not ascribe specific areas of responsibility to each agency, or a mechanism through which the AML activities should be coordinated.

The Belarusian banking sector consists of 28 banks, 12 of which are foreign institutions. The State-owned Belarus Bank is the largest, most influential bank in Belarus. Four other state banks and one private bank comprise the majority of the remaining banking activities in the country. Financial institutions are obligated to register transactions subject to special monitoring and transmit the information to the relevant monitoring agency. Financial transactions that are subject to special monitoring include cash and deposit transfers, bank account operations, international transfers, wire transfers, asset transfers, transactions involving loans, transfers of movable and immovable property, property donations and grants. A one-time transaction subject to special monitoring which exceeds approximately $15,350 for natural persons, or approximately $153,500 for legal persons and entities must be registered in accordance with the law. If the total value of transactions conducted in one month exceeds the abovementioned thresholds, and there is reasonable evidence suggesting that the transactions are related, then the transaction activity must be registered.

Financial institutions conducting transfers subject to monitoring are required to submit information about such transfers in written form. Financial institutions should identify the natural or legal person ordering the transaction and/or identify the person on whose behalf the transaction is being placed; disclose information about the beneficiary of a transaction; account and document details used in the transaction; the type of transaction; the name and location of the financial institution conducting the transfer; and the date, time and value of the transfer. The law does not specify required timeframes for reporting, or penalties for noncompliance. The law provides "safe harbor" for banks and other financial institutions that provide otherwise confidential transaction data to investigating authorities, provided that the information is given in accordance with the procedures established by law.

Failure to register and transmit information regarding such transactions may subject the bank or financial institution to criminal liability. For the majority of transactions conducted by banking and financial institutions, the relevant monitoring agency is the National Bank of Belarus. According to the National Bank, information on suspicious transactions should be reported to the Bank's Department of Bank Monitoring. Although the banking code stipulates that the National Bank has primary regulatory authority over the banking sector, in practice, the Presidential Administration exerts significant influence on central and state commercial bank operations.

The State Control Committee (SCC), the National Tax Inspectorate, and the Ministry of Interior have the legal authority to monitor and investigate suspicious financial transactions. In September 2003, President Lukashenko decreed the establishment of a financial intelligence unit (FIU) within the SCC and named the FIU as the primary government agency responsible for gathering, monitoring and disseminating financial intelligence. Belarus' FIU is not a member of the Egmont Group of FIUs. According to a GOB official, Russia represented Belarus at the Egmont Group meeting in October 2003 and agreed to sponsor Belarus' membership.

Terrorism is considered a serious crime in Belarus. Under the Belarusian Criminal Code, the willful provision or collection of funds in support of terrorism by nationals of Belarus or persons in its territory constitutes participation in the act itself in the form of aiding and abetting. Belarus' law on counterterrorism also states that knowingly financing or otherwise assisting a terrorist organization or group constitutes terrorist activity.

Belarus does not have a separate law criminalizing the financing of terrorism. Belarus' anti-money laundering law refers to the laundering of all proceeds obtained in violation of the law. The law does not make specific mention of terrorism. In a 2002 report to the UN Security Council Counter

Terrorism Committee established pursuant to UNSCR 1373, the GOB refers to its AML legislation as a measure to combat terrorist finance.

The seizure of funds or assets held in a bank requires a court decision, a decree issued by a body of inquiry or pre-trial investigation, or a decision by the tax authorities. In January 2002, the Board of Governors of the National Bank passed a decision on suspending debit and credit operations on accounts of terrorists, terrorist organizations and associated persons. The decision outlines a process for circulating to banks the list of individuals and entities included on the UN 1267 Sanctions Committee's consolidated list. The National Bank is required to disseminate to banks list updates and other information related to terrorist finance as it is received from the Ministry of Foreign Affairs. The decision gives banks the authority to freeze transactions in the accounts of terrorists, terrorist organizations and associated persons. Belarus has not identified assets belonging to individuals or entities included on the UN 1267 Sanctions Committee's consolidated list.

Belarus has signed bilateral treaties on law enforcement cooperation with Bulgaria, Lithuania, People's Republic of China, Poland, Romania, Turkey, the United Kingdom, and Vietnam. Belarus is also a party to five agreements on law enforcement cooperation and information sharing among CIS member States, including the Agreement on Cooperation among CIS Member States in the Fight against Crime and the Agreement on Cooperation among Ministries of Internal Affairs in the Fight against Terrorism. In June, Belarus ratified the UN Convention against Transnational Organized Crime. Belarus is a party to the 1988 UN Drug Convention and nine of the 12 conventions on counterterrorism. Belarus has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism.

The GOB has taken initial steps to construct an anti-money laundering/antiterrorist financing regime. Belarus should continue to enhance and implement its current legislation and should amend its AML Law in order to meet the revised FATF Forty Recommendations. The GOB should provide adequate resources to enable its designated FIU to operate efficiently and should establish a mechanism to improve the coordination between agencies responsible for enforcing anti-money laundering measures. The GOB should criminalize the financing of terrorism and become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

## Belgium

Belgium has a very comprehensive anti-money laundering regime, which was upgraded at the end of 2003 by new legislation. Despite this strong legislation, Belgium remains vulnerable to money laundering. Belgium had been criticized by the European Union (EU) for some of its banking secrecy policies, but in January 2003 the EU dropped its demands that Belgium abandon its banking secrecy. Since the current system was introduced in 1993, most of the money laundering cases detected in Belgium have been related to narcotics trafficking, particularly with its neighboring countries, the Netherlands, Luxembourg, Germany, and France. However, according to authorities from Belgium's financial intelligence unit (FIU), the Financial Intelligence Processing Unit (CTIF-CFI), the underlying predicate offenses have changed in recent years. The largest share of money laundering cases as of June 30, 2003, was connected to the unlawful trafficking in goods and merchandise, mainly automobiles, alcohol, and tobacco, as well as fiscal fraud. There were also a growing number of cases tied to organized crime, exploitation of prostitution, and human trafficking.

The main money laundering transactions are manual exchange transactions and international fund transfers and payments. The top three venues are bureaux de change, credit establishments, and brokerage firms. Funds are also laundered through the nonbank financial sector, such as casinos, notaries, lawyers or accountants, as well as through the diamond industry, real estate, offshore companies, gambling or amusement halls, and banks. Because 90 percent of all crude diamonds and 50 percent of all cut diamonds in the world pass through Antwerp, Belgium has recognized the

particular importance of the diamond industry, as well as its vulnerabilities. The Government of Belgium (GOB) has distributed case analyses of its experiences in pursuing money laundering cases utilizing the diamond trade, especially those incorporating African conflict diamonds. Historically related to the "placement" stage, the majority of recent cases transmitted to judicial authorities now relate to the "layering" stage. The majority of layering-type cases relate to fiscal fraud, such as VAT fraud, as well as organized crime and terrorism.

Belgium remains one of the few European countries permitting bearer bonds ("titres au porteur"), which are widely used to transfer wealth between generations and avoid taxes. Belgian authorities are planning legislation that will end issuance of bearer bonds by 2007.

Belgian officials noted in recent reports that "dummy companies," or front companies, figured prominently in cases turned over to legal authorities for prosecution for money laundering. They also stated that money launderers attempt to use notaries to create such companies or to buy property. They use such methods as selling property below its market value, making significant investments on behalf of foreign nationals with no connections to Belgium, making client property transactions with values disproportionate to the socio-economic status of the client, and creating a large number of companies in a short space of time

Money laundering in Belgium was criminalized through the Law of 11 January 1993, On Preventing Use of the Financial System for Purposes of Money Laundering, as amended, and Article 505 of the penal code, which sets penalties of up to five years imprisonment for money laundering. The law also mandated reporting of suspicious transactions by financial institutions and provided for an FIU, CTIF-CFI, to receive, process and analyze the reports. The government of Belgium criminalized money laundering related to all crimes in the Act of 17 July 1990. Accounts can be frozen on a case-by-case basis under Belgium's 1993 anti-money laundering law, if there is sufficient evidence that a money laundering crime has been committed. CTIF-CFI is charged with enforcing this law. Banks must submit to CTIF-CFI a written report regarding any transaction of any amount that they suspect may be linked to money laundering. CTIF-CFI has the legal authority to suspend a transaction for a period of up to 24 hours, while its analysts determine whether there is a sufficient legal basis under the 1993 law to hand over the file to judicial authorities.

The GOB passed a law on May 3, 2002, giving Belgium the authority to invoke countermeasures against countries and territories declared as noncooperative by the Financial Action Task Force (FATF). The GOB issued its countermeasures against Nauru in a June 10, 2002, Royal Decree. The May 2002 law also imposes further limitations on the operations of bureaux de change. A Royal Decree on December 15, 2003, similarly targets Burma as a noncooperative jurisdiction.

On December 4, 2001, under the Belgian EU presidency, the European Parliament and Council adopted the Second EU Anti-Money Laundering Directive (2001/97/EC), amending the previous 1991 Directive. In July 2002, the Belgian Council of Ministers approved the establishment of this Directive as part of Belgian domestic law. On December 19, 2003, the Belgian Parliament adopted a bill transposing into national law EU Directive 2001/97/EC on the prevention of the use of the financial system for the purpose of money laundering, and bringing Belgium's anti-money laundering legislation into conformity with the revised FATF Forty Recommendations. This law entered into force in January 2004.

Additional legislation, passed December 19, 2003, implemented the Second Directive further, broadening the scope of money laundering predicate offenses beyond drug trafficking, and imposing reporting obligations on certain legal professionals such as lawyers and accountants. The December 19, 2003 legislation also prohibits cash payments exceeding 15,000 euros for goods and real property. The intent of this law is to limit the use of property and real estate purchases as a medium for money laundering. This legislation also includes merchants of "high value commerce" among those persons required to report suspicious activities to CTIF-CFI. This law explicitly targets the diamond trade,

whose largest venue for global trading is Antwerp. The GOB seeks to close off the use of diamond trading to accomplish money laundering, through this law. This is important because Belgium has already logged cases of terrorist groups attempting to use the diamond trade.

In 1998, the GOB adopted legislation that mandates the reporting of suspicious transactions by notaries, accountants, bailiffs, real estate agents, casinos, cash transporters, external tax consultants, certified accountants, and certified accountant-tax experts. Under the legislation, casinos include any establishments that conduct casino-like gambling activities. CTIF-CFI has observed a marked increase in casino chip purchasing operations, much of it tied to Central and Eastern European organized crime syndicates. There is concern that casino operators are not keeping adequate records of the buying and selling of chips or of customer identification documents, as required under the anti-money laundering law. Current law extends this reporting obligation to funds suspected of being derived from the financing of terrorism.

Belgian financial institutions are required to maintain records on the identities of clients engaged in transactions that are considered suspicious, or that involve an amount equal to or greater than 10,000 euros. All persons required to report suspicious transactions to CTIF-CFI are required to keep records of such transactions for five years. Financial institutions are also required to train their personnel in the detection and handling of suspicious transactions that could be linked to money laundering. Failure to comply with the requirements of the 1993 law, including failure to report, is punishable by a fine of up to 1.25 million euros. No civil, penal, or disciplinary actions can be taken against institutions, or their employees or representatives, for reporting such transactions in good faith. April 8, 2002, saw legislation passed that enhanced the protections accorded to witnesses, including bank employees, who report suspicions of money laundering or come forward with information about money laundering crimes.

On January 1, 2002, the FIU entered into an agreement with the Federal Police to expedite cases to the Public Prosecutor that are the focus of an active police investigation. Under the new expedited procedure, 38 cases were handed to the Prosecutors. Since the founding of CTIF-CFI on December 1, 1993, more than 659 individuals have been successfully prosecuted under Belgian law, receiving combined total sentences of 1,332 years and 14.2 million euros in fines. During the same time period Belgian authorities halted 116 transactions and confiscated nearly 360 million euros. From July 2002, through June 2003, CTIF-CFI received 11,063 disclosures representing 1.877 million euros. Of these, 1,712 have become cases, and 832 have been forwarded to the public prosecutor.

In combating terrorism financing, Belgium issues asset freeze orders for individuals and entities designated by the UNSC 1267 Committee. Belgium also implements freeze orders for all individuals and entities designated by the EU. New domestic legislation implementing the June 13, 2002, EU Council Framework Decision on Combating Terrorism came into effect on January 8, 2004. The legislation specifically criminalizes terrorist acts and material support (including financial support) for terrorist acts, but does not create any mechanism for administratively freezing the assets of terrorists or their supporters. UN or EU designation continues to be prerequisite for any administrative action in Belgium.

CTIF-CFI is actively involved in the fight against terrorist financing. CTIF-CFI is currently investigating several cases of terrorist financing-related money laundering. These have involved both apparently legitimate sources (involving businesses acting as fronts or funds collected from associations with purported social, charitable, or cultural purposes) and illegal ones (involving illegal drugs, fiscal fraud, and diamond trafficking, among other activities). As of June 30, 2003, a total of 66 such cases have been transmitted to the Public Prosecutor—60 of them since September 11, 2001. According to a CTIF-CFI report, there is growing evidence that some Belgian-based nongovernmental organizations (NGOs) are being used to funnel terrorist funds. CTIF-CFI believes it has identified

financial links in Belgium to al-Qaida, and the FIU has indicated that addressing the problem of terrorist financing has become one of its highest priorities

Belgium is a party to the 1988 UN Drug Convention, and in December 2000 signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. On December 10, 2003, Belgium signed the UN Convention Against Corruption. Ratification of the UN International Convention for the Suppression of the Financing of Terrorism has passed the senate of the Belgian Parliament but awaits action by the lower chamber. Belgian Justice Ministry officials expect that the Convention will be ratified by February 2004. Belgium has a Mutual Legal Assistance Treaty with the United States, which entered into force on January 1, 2000. The GOB exchanges information with other countries through international treaties. Belgium is a member of the FATF and the European Union. The CTIF-CFI is active among its European colleagues in sharing information and is a member of the Egmont Group, maintaining a cooperative relationship with over 80 foreign FIUs worldwide.

Belgium has criminalized terrorist financing and enhanced its comprehensive anti-money laundering regime in this regard. Through the enhanced scrutiny law enforcement agencies are devoting to all sectors of the global economy that may be abused by terrorist organizations and their supporters, the smuggling of diamonds and gems has been identified as an avenue by which it is easy to move value across international borders without detection. For that reason, the GOB should exert vigilance with regard to its diamond market to prevent its being used as a means to finance terrorism. The GOB should ratify and implement the UN International Convention for the Suppression of the Financing of Terrorism. In addition, Belgium should continue to work toward the elimination of bearer bonds.

## Belize

Belize's proximity to Mexico and Guatemala has made it a significant transshipment point for illicit drugs, notably cocaine and marijuana. Belize is not considered a major financial center, however, its growing offshore sector has eight banks, an unknown number of international trusts, over 22,000 international business companies (IBCs), and one insurance company. Currently, there are no offshore casinos operating within Belize. It is believed that there are a number of undisclosed Internet gaming sites operating from within Belize; because such gaming sites are not regulated, the exact number is not known. The transshipment of drugs and the expanding offshore sector, regulated by those who promote it, make Belize vulnerable to money laundering. Although Belize is not experiencing any significant increase in financial crimes, there has been an increase in the number of forged checks cashed. Criminal proceeds laundered in Belize are believed to be derived primarily funds derived from foreign criminal activities related to narcotics trafficking and contraband smuggling moving through the offshore sector; there is additional evidence that casas de cambio also facilitate money laundering activity.

The Money Laundering Prevention Act (MLPA), in force since 1996, criminalizes money laundering related to many serious crimes including arms and drug trafficking, fraud, extortion, terrorism, blackmail, and certain theft involving more than approximately $10,000. The Act also provides mechanisms for the freezing and forfeiture of assets; mandates reporting of suspicious transactions by banks (including offshore banks), exchange houses, nonbank financial institutions and intermediaries, such as attorneys and accountants—but not casinos; specifies penalties for covered entities who assist and collaborate in money laundering; and authorizes international cooperation in money laundering cases. Additionally, persons departing Belize must declare BZ 10,000 (approximately $5,000) or more in cash or negotiable bearer instruments.

Financial institutions are required to know their customers, monitor their customers' activities and report any complex, unusual, or large business transactions to the to the financial intelligence unit (FIU). Supporting Regulations and Guidance Notes were issued by the Central Bank in 1998. Financial institutions are required to retain records for a minimum of five years, and can lose their

licenses and face a maximum fine of approximately $50,000 for failing to do so. Individual bankers can be held responsible if their institutions are caught laundering money. However, bankers are protected from prosecution if they cooperate with law enforcement. Financial institutions must also comply with instructions from the Central Bank, and permit the Supervisory Authority to enter and inspect records.

The gaming industry is not regulated under the MLPA. Neither the Gaming Control Act, 1999 nor the Computer Wagering Licensing Act, 1995 require reporting of suspicious activity. The Government of Belize (GOB) has established legislation that facilitates computer and casino gaming; however, the legislation makes no provision for due diligence procedures, record keeping, or suspicious transactions reporting.

The International Financial Services Commission (IFSC) serves as the regulator for Belize's offshore sector. Members of the IFSC consist of individuals from both the private and public sectors. The IFSC promotes, protects, and enhances Belize as an offshore center. It also regulates and supervises the provision of international financial services within Belize through formulation of appropriate policies and the provision of advice to government on regulatory matters.

The Offshore Banking Act, 1996 (OBA) governs activities of Belize's offshore banks. The Act generally prohibits offshore banks from transacting business with residents of Belize. There are minimum capital requirements under the OBA and the shares of offshore banks must be in registered form and not in bearer form. Offshore banking licenses are granted by the Minister of Finance on the recommendation of the Central Bank, which has supervisory powers over both domestic and offshore banks. Before an offshore bank is licensed, the Central Bank must be satisfied that the shareholders and directors of the proposed bank are fit and proper. With regard to the offshore banks, the supervisory role of the Central Bank is restricted to the licensee's operations in Belize. The Central Bank has no access to information regarding a customer, depositor or transaction, except in cases of large credit exposures.

Offshore trusts are also prevalent in Belize and registration with a regulatory body is not required. Offshore trusts are governed under the Belize Trust Act, 1992. Although the Central Bank is the supervisory authority with regard to money laundering, there are no legal requirements to provide account information or activity regarding trusts to the Central Bank; nominee trustees are permitted. The authorities do not know how many trusts are in operation; and no additional measures are being contemplated to thwart the potential misuse of charitable and/or nonprofit entities, such as charitable trusts, that can be used as conduits for the financing of terrorism.

IBCs are regulated under the International Business Companies Act of 1990 and amendments to the Act issued in 1995 and 1999. The 1999 amendment to the IBC Act allows properly licensed IBCs to operate as banks and insurance companies. Registered agents have primary responsibility for the registration and on-going operations of the IBCs registered in Belize. Registered Agents of IBCs must satisfy the IFSC that they conduct due diligence background checks before IBCs are allowed to register. In addition, registered agents must satisfy certain criteria to obtain licenses in order to perform offshore services. Although IBCs are allowed to issue bearer shares, the registered agents of such companies must know the identity of the beneficial owner of those shares.

Belize's Police Department (BPD) has assigned five persons to investigate money laundering cases. This unit serves as the FIU. An office space, separate from the police department, has been designated for this unit. Recent arrests involve forged checks. The subjects also are expected to be charged with money laundering. The authorities have also issued a warrant for the arrest of individuals alleged to be engaged in the forging of Belizean passports. These individuals are also expected to be charged with money laundering offenses.

Under Belizean law all assets related to money laundering may be forfeited. This includes vessels, vehicles, aircraft and other means of transportation or communication, and legitimate businesses. It also includes property, tangible or intangible, that may be related to money laundering. There are no limitations to the kinds of property that may be seized. There are no legal loopholes that allow traffickers and supporters of terrorist organizations to shield assets. However, there are deficiencies in the investigation process and the gathering of sufficient evidence to link an asset to a money laundering related offense, and the law enforcement entities lack resources to trace and seize assets. With the establishment of the FIU, it is hoped that the deficiencies in the investigation process and the gathering of evidence to link an asset to a money laundering offense will be addressed. The Belize Police Department reported that during the past year, the amount of assets forfeited and/or seized amounted to BZ $513,000. There are no specific provisions allowing for sharing of seized assets between cooperating foreign authorities.

Belize has criminalized terrorist financing with amendments to its anti-money laundering legislation, the Money Laundering Prevention Act. Belize authorities have the power to identify, freeze, and seize terrorist finance assets. Authorities have also circulated to all financial institutions lists of persons alleged to be involved with terrorist financing. None of those on the list have been reported to be engaged in financial transactions in Belize, and no assets belonging to persons alleged to be engaged in terrorist financing have been identified in Belize.

The recent amendments to the MLPA eliminate the requirement for an MLAT or bilateral agreement for an exchange of information or for providing any other forms of judicial and legal assistance to the United States or any other country. Whenever possible, the Belize authorities have cooperated with U.S. Government agencies—most specifically with the FBI, Securities and Exchange Commission, U.S. Commodities Futures Trading Commission, and various state and regulated agencies. A Mutual Legal Assistance Treaty (MLAT) is in force between the United States and Belize. Belize also has bilateral agreements with the United Kingdom and Canada.

Belize is a party to the 1988 UN Drug Convention. In December 2003, Belize became a party to the UN International Convention for the Suppression of the Financing of Terrorism. Belize is a member of the Caribbean Financial Action Task Force (CFATF) and the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD).

The GOB will remain vulnerable to money launderers as long as IBCs can issue bearer shares without disclosure of the beneficial owner. The GOB should monitor the Internet and casino gaming industry and require suspicious activity reporting to prevent potential money launderers.

## Benin

Benin is not a major financial center. However, Government of Benin (GOB) officials believe narcotics traffickers use Benin to launder proceeds. Although the exact nature of money laundering is unknown, GOB officials suspect that the primary methods are through the purchase of assets such as real estate, the wholesale shipment of vehicles or items for resale, and front companies. In addition, some laundering seems to occur through the banking system.

A 1997 counternarcotics law criminalizes narcotics-related money laundering, and provides penalties of up to 20 years in prison as well as substantial fines. The law requires that all financial institutions report transactions above a certain threshold, although compliance with this provision of the law is believed to be low. Cross-border currency reporting requirements exist, but are not enforced.

The GOB has the legal authority to seize narcotics-related assets, but no seizures have been made. Law enforcement authorities lack the training and resources to investigate money laundering cases.

In 2000, the Economic Community of West African States (ECOWAS) established the Intergovernmental Group for Action Against Money Laundering (GIABA) based in Dakar, Senegal. In November 2002 GIABA hosted an anti-money laundering seminar for representatives of 14 ECOWAS members, including Benin.

Benin is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Benin's National Assembly ratified the UN International Convention for the Suppression of the Financing of Terrorism on October 28, 2002.

Benin should criminalize terrorist financing and money laundering related to all serious crimes. Benin should also develop and enforce a viable anti-money laundering regime.

## Bermuda

Bermuda, an overseas territory of the United Kingdom (UK), is considered a major offshore financial center and has a reputation internationally for the integrity of its financial regulatory system. The government of Bermuda (GOB) cooperates with the United States and the international community to counter money laundering and terrorist financing and continues to update its legislation and procedures in conformance with international standards.

Consistent with the GOB's anti-money laundering and antiterrorist financing policy, Bermuda welcomed the March 2003 visit of the International Monetary Fund (IMF). The IMF examined Bermuda's financial sector and regulatory regime, as it has other offshore financial centers that choose to participate in the voluntary review program. The final report is due to be released in March 2004.

In further demonstration of the GOB's commitment, Bermuda's National Anti-Money Laundering Committee (NAMLC), of which the Bermuda Monetary Authority (BMA)—Bermuda's independent financial regulatory body—is a member, held hearings in 2003 on the island's anti-money laundering laws as set out in the Proceeds of Crime Act (PCA) and other legislation, regulations, and procedures. The purpose of the hearings and other consultations was to thoroughly review current law as it relates to the June 2003 recommendations of the Financial Action Task Force (FATF), with the aim of meeting new international requirements. As a result of the hearings, the GOB intends to make a number of amendments to the PCA in 2004. Additionally, the NAMLC has reworked and updated the guidance notes for financial institutions under the PCA, which will be circulated in the community for comment.

The GOB first enacted specific money laundering legislation in 1997, passing the PCA to apply money laundering controls to financial institutions such as banks, deposit companies, trust companies, and investment businesses, including broker-dealers and investment managers. Insurance companies are covered to the extent that they are judged susceptible to the risk of money laundering abuse. Amendments in 2000, effective June 1, 2001, expanded the scope of the legislation to cover the proceeds of all indictable offenses, including tax evasion, corruption, fraud, counterfeiting, theft and forgery.

In December 2002, Parliament passed the Bermuda Monetary Authority Amendment Act 2002, expanding the list of BMA objectives to include action to combat financial crime. It underpins the BMA's existing role in checking systems and controls in financial institutions and paves the way for the BMA to expand its role in administering UN sanctions and other measures on a delegated basis. In order to implement provisions of relevant UN Security Council antiterrorism resolutions, the act—among other provisions—prescribes the manner by which the finance minister may delegate to the BMA the power to block accounts.

In addition to the PCA, which has encountered virtually no objections from the financial sector and has not resulted in a decline in deposits, other Bermuda statutes are also relevant to money laundering.

The Criminal Justice (International Co-Operation) (Bermuda) Act 1994, as amended in 1996, authorizes the provision of assistance to foreign entities upon their request, including securing of evidence in Bermuda and overseas. Legislation assigns responsibility for the criminal aspects of financial crime to the Financial Investigation Unit (FIU) of the Bermuda Police Service, whereas tax offenses fall under the purview of the attorney general.

The power to regulate investment providers is legislated through the Investment Business Act 1998 (IBA). The Act authorizes the BMA to obtain any information deemed necessary by regulators to conduct their supervision of investment providers, who are fully subject to know-your-customer requirements under the PCA and its regulations. The BMA's supervision of investment providers includes specific on-site testing of their systems and controls, including their compliance with anti-money laundering requirements.

Parliament passed legislation to strengthen provisions of the IBA in the winter of 2003. The Investment Business Act 2003 enhances the regulatory powers of the BMA. Among the provisions of the act are measures to strengthen criminal and regulatory penalties. Also, under the Act, oversight of stock exchanges will come under the purview of the BMA, and the BMA's authority to cooperate with foreign regulatory bodies will be enhanced. The legislation imposes licensing obligations on investment business conducted from within Bermuda while also empowering the finance minister to define other circumstances where licensing may be required.

The GOB is expected to propose other amendments to BMA legislation, offering a definition that will link terrorist-related crimes to "serious crimes" under an amended PCA, consistent with FATF guidelines. Relevant changes to Bermuda's criminal code are also planned. In the interim, the BMA instructed financial institutions to treat suspected instances of terrorist financing as if covered by PCA and to report accordingly. Financial institutions were given the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224 (on terrorist financing) and the UN 1267 Sanctions Committee consolidated list, but no matches were found.

Another mandate of the BMA is the licensing and supervision of deposit-taking institutions, including the worldwide operations of Bermudian banks, as provided by the Banks and Deposit Companies Act 1999. That Act implements the Basel Committee's "Core Principles for Effective Banking Supervision." As part of its oversight responsibilities, the BMA conducts on-site reviews and detailed compliance testing of banks' anti-money laundering controls. The BMA may require reports from auditors, accountants or other persons with relevant professional skills on matters pertinent to the BMA's responsibilities. The BMA has not recently been required to employ its formal enforcement powers to investigate suspicions of illegal deposit taking.

Banks and other financial institutions are required to retain records for a minimum of five years. Bankers and others are protected by law with respect to their cooperation with law enforcement officials. Bermuda has not adopted bank secrecy laws, but does, like the UK, operate under a banker's common law duty of confidentiality.

Know-your-customer requirements are basic to the PCA, which also provides for the monitoring of accounts for suspicious activity. Additionally, Bermuda reviews the fitness of persons seeking to undertake business on the island. The vetting process is undertaken when an entity is incorporated. The BMA requires that a personal declaration form be submitted for principals (beneficial owners) of international businesses prior to incorporation. Similar requirements apply to proposals to transfer shares. Additionally, a company must detail its business plan and maintain a register of shareholders at its registered office.

The BMA is also charged with oversight responsibility of trusts. Bermuda's Trusts (Regulation of Trust Business) Act 2001 invests the BMA with full licensing, supervision and enforcement powers relating to persons who conduct trust business in or from Bermuda. The BMA routinely conducts on-

site review visits to determine, among other things, compliance with anti-money laundering laws and regulations.

Collective investment schemes (CISs) are currently regulated pursuant to general regulations of the Bermuda Monetary Authority Act, and fund administrators are regulated persons for the purposes of the PCA. To strengthen regulation, however, CISs, including hedge funds, will be the subject of legislation anticipated for the summer 2004 session of Parliament. The proposed legislation will expand the definition of collective investment schemes to include, in addition to mutual funds and unit trusts, other business vehicles that pool and manage investment monies. It will require the licensing of fund administrators who will then be subject to minimum standards and a code of practice. The BMA will also be able to conduct compliance checks of PCA procedures as carried out by CIS administrators. However, the BMA will continue to apply differentiated requirements involving lighter regulation of schemes catering to institutional and sophisticated investors, with greater reliance on transparency and disclosure.

International business forms the backbone of Bermuda's economy. As noted above, the BMA reviews all proposals to incorporate companies and set up partnerships and also vets beneficial owners. As of December 31, 2002, records indicate that 13,337 international businesses were registered in Bermuda, compared to 2,758 local companies. Of the international businesses, there were 12,101 exempt companies, 578 exempt partnerships, 639 nonresident international companies (incorporated elsewhere to do business in Bermuda), and 19 nonresident insurance companies. As of November 2003, there were 1,650 insurance companies. At the end of 2002, there were 1,294 mutual fund companies and 132 unit trust companies in Bermuda. Offshore banking is not permitted in Bermuda.

The majority of Bermuda's exempt companies are shell companies with no physical presence on the island. Local directors are designated (generally a local lawyer and secretary) who manage corporate affairs in Bermuda. The owners and controllers are vetted by the BMA before exempt companies can be established or any shares transferred between nonresidents. The register of members is open to public inspection.

Neither casinos nor Internet gaming sites are allowed in Bermuda, although there is a growing groundswell—especially among those in the tourism industry—to legalize some form of gambling. The GOB has withstood that pressure so far.

The GOB regulates offshore companies and domestic companies equally from a prudential standpoint. The difference between the two is the ownership restriction. Domestic companies, which must be at least 60 percent Bermudian-owned, are permitted to do business within Bermuda. Exempted companies are exempt from the 60 percent ownership restriction and in fact can be up to 100 percent foreign-owned, but are prohibited from doing business locally. The GOB agreed to remove some minor distinctions between the two categories as part of its advance commitment to the Organization for Economic Cooperation and Development (OECD).

The FIU serves as the island's financial intelligence center. It has been a member of the Egmont Group since 1999. The FIU is the designated recipient of suspicious activity reports (SARs) in Bermuda. In the past, the majority of SARs were related primarily to conversion of suspected local drug profits to U.S. dollars via the island's Western Union money transmission service, which ceased doing business on October 31, 2002. Because Bermuda law requires money transmission services to be conducted in association with a licensed deposit-taker, conversion of funds is subject to bank reporting standards.

SAR statistics reflect the closure of the island's single money transmission service. In 2001, 2,827 SARs were filed with the FIU, decreasing to 2,570 in 2002, and just 261 in 2003. Non-money-transmitting SARs ranged from 34 in 2001 to 501 in 2002 and 261 in 2003. In 2001, there were two arrests for money laundering; in 2002, eight arrests representing three cases; and in 2003, six arrests.

To date there have been no convictions for money laundering, although there is one case awaiting trial and several others close to being charged. There were 25 bank fraud cases in 2002, and 20 cases in 2003.

Bermuda has not formally criminalized terrorist financing, but it is subject by extension to the UK Terrorism (United Nations Measures) (Overseas Territories) Order 2001. That order creates the offense of collecting and making funds available for terrorist purposes and provides for identification and freezing of terrorist-related funds. However, Bermuda recognizes the need for legislation to create the offense of "domestic terrorism."

The PCA establishes procedures for identifying, tracing, and freezing the proceeds of narcotics trafficking and other indictable offenses, including money laundering, tax evasion, corruption, fraud, counterfeiting, stealing and forgery. Additionally, the PCA provides for forfeiture upon criminal conviction if it is proven that benefit was gained from a criminal act. Under the PCA, there is no provision for seizure of physical assets unless intercepted leaving the island. However, the Supreme Court may issue a confiscation order pursuant to which the convicted must satisfy a monetary obligation. The amount paid is placed into the Confiscated Assets Fund and may be shared with other jurisdictions at the direction of the Minister of Finance. If the convicted fails to satisfy the confiscation order, the onus is on the prosecution to apply to the court for appointment of a receiver. Under the Misuse of Drugs Act, physical assets can be seized if used at the time the offense was committed.

The GOB issued no confiscation orders in 2000, 2002, or 2003, and only one in 2001 for approximately $62,000. Forfeitures under the Misuse of Drugs Act totaled three in 2003, for a total value of almost $14 million. Cash seized in 2003 under PCA detention orders exceeded $173,000, and restrained assets were valued at over $4.7 million.

The Bermuda Police Service and the courts enforce existing drug-related asset tracing/seizure/forfeiture laws. The PCA will likely be amended in 2004 to provide measures to detect/monitor cross-border transportation of cash and to cover gatekeepers, such as attorneys and accountants. Currently, if there are reasonable grounds for suspicion, Her Majesty's Customs is authorized to seize cash and instruments; monies can also be seized if travelers fail to report the transportation of cash in excess of $10,000.

Although Bermuda cooperates with the United States and other countries to trace/seize assets and uses tips from other countries, it does not—as an overseas territory—engage in negotiations with other governments to enter into treaty obligations with respect to asset tracing and seizure. This role rests with the United Kingdom.

Bermuda is a member of the Caribbean Financial Action Task Force (CFATF) and the Offshore Group of Banking Supervisors. Through the UK by extension, Bermuda is a party to the 1988 UN Drug Convention and the U.S./UK Extradition Treaty. Although the UK is a signatory to the UN International Convention for the Suppression of the Financing of Terrorism, those provisions have not yet been formally extended to Bermuda.

The GOB should modify its domestic legislation to ensure it implements the FATF Special Eight Recommendations on Terrorist Financing and the new international anti-money laundering standards. The GOB also should consider enacting measures to detect/monitor cross-border transportation of cash and monetary instruments to include gatekeepers, such as accountants and attorneys, as covered entities under its anti-money laundering laws.

## Bolivia

Bolivia is not an important regional financial center, but it occupies a geographically significant position in the heart of South America. Most money laundering in Bolivia is related to public

corruption, contraband smuggling, and narcotics trafficking. Bolivia's long tradition of banking secrecy facilitates the laundering of the profits of organized crime and drug trafficking, the evasion of taxes, and laundering of other illegally obtained earnings. The year 2003 was marked by political instability and social violence culminating in the October resignation of the president.

Law 1768 of 1997, which modified the penal code, criminalized money laundering related to narcotics trafficking, organized criminal activities, and public corruption, provided for a penalty of one to six years for money laundering—however, it must be directly tied to one of the substantive crimes of narcotics trafficking, corruption or organized criminal activities to apply—and defined the use of asset seizure beyond drug-related offenses.

Law 1768 also created a financial intelligence unit, the Unidad de Investigaciones Financieras (UIF), within the Office of the Superintendence of Banks and Financial Institutions. The attributions and functions of the UIF, which began operations in 1999, are defined under Supreme Decree 24771. The primary responsibility of the UIF is to analyze information and transactions, and detect irregularities in the banking system. The UIF is responsible for implementing anti-money laundering controls and has the ability to sanction financial institutions for noncompliance. Banks, insurance companies, and securities brokers are required to identify their customers, retain records of transactions for a minimum of ten years, and report to the UIF transactions considered unusual (without apparent economic justification or licit purpose) or suspicious (customer refuses to provide information or the explanation and/or documents presented are clearly inconsistent or incorrect). The UIF is obligated to report all detected criminal activity to the Public Ministry, the office responsible for prosecuting money laundering, and to request additional information from the financial sector in order to assist the Public Ministry in any of its cases.

In 2002, the Special Group for Investigation of Economic Financial Affairs (GIAEF) was created within Bolivia's Special Counternarcotics Force (FELCN) to work in coordination with the UIF. So far, the GIAEF has primarily provided financial investigative support to counternarcotics investigations. In 2002 the UIF, the Public Ministry, the National Police, and FELCN established mechanisms for the exchange and coordination of information, including formal exchange of bank secrecy information.

In spite of advancements in combating money laundering, there are still many weaknesses in Bolivia's anti-money laundering regime. The Government of Bolivia (GOB) has shown little enthusiasm for strengthening the UIF, and there is continued confusion over its legal role and weaknesses in its regulatory framework that hamper the UIF's effectiveness as a financial intelligence unit. The GOB's anti-money laundering system is also undermined by the lack of legal support for money laundering investigations carried out by law enforcement officials. In order to prosecute a money laundering case, the crime of money laundering must be tied to an underlying illicit activity; at present, the list of these underlying crimes is extremely restrictive, and inhibits money laundering prosecution. Although the Public Ministry is the office responsible for prosecuting money laundering offenses, it does not have a specialized unit dedicated to the prosecution of these cases, and there have been few convictions for money laundering.

In order to address the problems faced by Bolivia's anti-money laundering regime, the UIF has proposed various changes that will amend Law 1768 and the UIF regulations to make money laundering an autonomous crime, penalized by a minimum prison term of fifteen years. This draft law would also require financial institutions to file cash transaction reports and the customs authority to provide the UIF with information regarding the movement of cash or monetary instruments into or out of Bolivia. The draft law would also criminalize terrorist financing. The GOB has not moved forward on this draft law as yet.

The GOB currently lacks significant legislation regarding terrorist financing. Although Bolivia is a party to the UN International Convention for the Suppression of the Financing of Terrorism and

signed the OAS Inter-American Convention Against Terrorism, there are no explicit domestic laws that criminalize the financing of terrorism or grant the GOB the authority to identify, seize, or freeze terrorist assets. Nevertheless, the UIF regularly receives and maintains information on terrorist groups and can freeze suspicious assets under its own authority, as it has done in counternarcotics cases. There have been no terrorist financing cases, however.

Traditional asset seizure continues to be employed by counternarcotics authorities; the eventual forfeiture of assets can be problematic. Prior to 1996, Bolivian law permitted the sale of property seized in drug arrests only after the Supreme Court confirmed the conviction of a defendant. A 1995 decree permitted the sale of seized property with the consent of the accused and in certain other limited circumstances. The Directorate General for Seized Assets (DIRCABI) is responsible for confiscating, maintaining, and disposing of the property of persons either accused or convicted of violating Bolivia's narcotics laws. DIRCABI has been poorly managed for years, and it auctions confiscated goods at a very slow pace.

Bolivia is a party to the 1988 UN Drug Convention, and has signed but not yet ratified the UN Convention against Transnational Organized Crime, which entered into force internationally on September 29, 2003. On December 9, 2003, Bolivia signed the UN Convention Against Corruption. Bolivia is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering and holds the presidency of the group in 2004. Bolivia is a member of the South America Financial Action Task Force (GAFISUD) and underwent a mutual evaluation by GAFISUD in October 2002. Bolivia's UIF is a member of the Egmont Group. The GOB and the United States in June 1995 signed an extradition treaty, which entered into force in November 1996.

The GOB should strengthen its anti-money laundering regime by improving Bolivia's current money laundering legislation so that it conforms to FATF and GAFISUD standards. The GOB should adopt new laws making money laundering a separate offense without requiring a connection to other illicit activities, expand the list of predicate offenses, criminalize terrorist financing, and expeditiously block terrorist assets. The jurisdiction of the UIF must also be expanded to cover reporting by nonbanking financial institutions. The GOB should continue to strengthen the relationships and cooperation between all government entities involved in the fight against money laundering.

## Bosnia and Herzegovina

Bosnia and Herzegovina is neither an international, regional, nor offshore financial center. Bosnia and Herzegovina (BiH) is a significant market and transit point for illegal commodities including cigarettes, firearms, and fuel oils. Foregone customs revenues due to black-marketeering are estimated at $500 million per annum. By some accounts the majority of economic activity in BiH is in the gray market. International observers believe the laundering of illicit proceeds from criminal activity and for political purposes through existing financial institutions is widespread. However, the proceeds of narcotics trafficking tend to be diverted outside of Bosnia. Money laundering tends not to involve U.S. currency or proceeds from narcotics sales in the U.S. Although the economy is primarily cash-based, with 40 percent of citizens lacking a bank account, deposits into banks have increased by 200 percent, indicating that citizens are beginning to trust the banking system and its currency and institutions. Legal entities are required to maintain bank accounts.

There are multiple jurisdictional levels in Bosnia and Herzegovina: the State (or federal) level, which has a less-developed program; the entity (or state) level, which includes two entities, the Federation of Bosnia and Herzegovina (Federation) and Republika Srpska (RS); a District Brcko, which is not at the same level as the entities but acts as an independent entity nonetheless; cantons in the Federation; and, municipal governments in both entities and the Brcko District. Each jurisdiction has its own (for the most part) parallel institutions, criminal codes, criminal procedure codes, supporting laws and

regulations and enforcement bodies. Although the institutions at the entity level cooperate with one another and with counterparts in other countries, there is a fair amount of confusion regarding jurisdictional matters between the entities and State level institutions. Entity, Brcko and State-level Criminal and Criminal Procedure Codes were harmonized in 2003. Subordinating the entities' reach to the State level institutions is a priority for the UN's Office of the High Representative (OHR), which has final say over the administration of the country.

Money laundering is a criminal offense in all State and entity criminal codes. New criminal procedure and criminal codes were enacted at the State level on March 1, 2003 (corresponding criminal codes at the entity level became effective in summer 2003), with tougher provisions against money laundering, though significant time and resources will be needed to fully implement and enforce this new legislation and to develop even the most rudimentary of anti-money laundering regimes. While some legal elements for anti-money laundering measures exist, the expertise, capability, and will to control drug-related transactions do not. At the State level, BiH still lacks a financial intelligence unit (FIU) and comprehensive money laundering, terrorist financing, and asset forfeiture legislation. To date, existing asset seizure and forfeiture statutes have neither been pursued by prosecutors nor imposed by judges. There is no established mechanism to identify, trace, or share narcotics-related assets.

Legislation is before the RS and Federation parliaments to transfer Customs competency from the entities to the State-level Indirect Tax Authority (also to house the yet to be implemented Value Added Tax). Currently, the RS, the Federation and the Brcko district have separate customs agencies that administer the federal-level customs law. In practice, this has led to uneven interpretation of customs law and created greater opportunities for smuggling into and out of BiH, which makes it an attractive logistical base for terrorists and their supporters. A State-level customs service is expected to be fully operational in the first half of 2004.

Current civil statutes governing money laundering are inadequate and inadequately enforced in an economy that is primarily cash-based and largely unregulated. There is significant ambiguity and overlap in the authorities of investigative and regulatory agencies including the interior ministries, tax and customs administrations, banking agencies, the RS Ministry of Finance Money Laundering Unit and the Federation Financial Police (FFP), soon to be renamed the Federation's Anti-Fraud Service under OHR-proposed draft legislation. All have been subject to political interference and/or direct intimidation in the conduct of their duties. Governmental authorities throughout all three entities are primarily concerned with tax evasion and customs evasion, and concentrate resources allocated for combating all financial crimes (including money laundering) on those two issues.

There are 27 banks chartered in the Federation and 10 in RS. Currently, control over the banking sector is vested at the entity rather than the State level, with both the Federation and the RS maintaining separate, but roughly parallel, banking agencies. Since there are no banks chartered in District Brcko, there is no banking supervisor located there. (Authority over the 15 bank branches in Brcko is held by the banking agencies in the entities where they are chartered.) A number of banks, including all within the Federation, do have compliance officers, called kopits. Many of the Federation's kopits voice frustration at lack of or slow feedback regarding the reports they send the financial police as well as the fact that with the 2000 anti-money laundering legislation, banks were expected to change their systems drastically and add responsibilities overnight, with no training or preparation. Although the respective banking agencies have provided training to compliance officers, bankers note that a State-level working group to assist the banks with various technical, training and compliance issues would be helpful. The international community has established a working group that is planning to place both banking agencies within the Central Bank in 2004. As a general rule, regulatory legislation is stringent in theory but remains tenuous in practice. Although Bosnia and Herzegovina generally adheres in practice to the Basel Committee's "Core Principles for Effective Banking Supervision" (including legal requirements to report suspicious transactions and conduct due diligence), its laws are an unwieldy combination of communist-era statutes and reforms imposed by

the international community. Although financial institutions are obligated to maintain detailed deposit records and to report periodically to regulatory authorities, in practice, banking standards, as they relate to money laundering, do not conform to international norms.

Last year the Management Board of the Federal Banking Agency (FBA) established via internal regulations a Department for Control and Prevention of Money Laundering and Financing Terrorism in the Banks. The department, which became operational on February 1, 2003, consists of three employees—the manager and two control officers. Since inception, the department has conducted nine targeted operations aimed at preventing money laundering and terrorism financing. The FBA also conducted four supervisory control financial operations, during which 45 accounts, worth a total value of $4.4 million, were temporarily blocked.

Both RS and the Federation have a Securities Commission and an Insurance Commission. The Commissions act as regulators for their respective sectors.

The entities and Brcko have FIUs. In the Federation, the FIU is part of the Financial Police; within the RS, the FIU is an independent body in the Ministry of Finance; and in Brcko, the FIU is part of the Tax Administration. From January 1 through August 2003, the Financial Police in the Federation received 23,875 currency transaction disclosures and 360 suspicious transaction reports (STRs), and estimates that another 10,000 currency reports were received during the remaining months of 2003. Of the 360 STRs filed, 340 involved payments to offshore zones. The staff of five process reports manually. From January through August 2003, 190 cases were sent to the Prosecutor's Office. Through December 2003, the RS police filed 11 money laundering criminal charges with the RS Prosecutor's Office against 17 perpetrators. However, it was subsequently determined that three of these cases were due to tax evasion. The value of financial transactions documented in these cases is over KM 100 million, approximately $62 million.

A draft law, the "Prevention of Money Laundering and Terrorist Financing," would create a State-level FIU within the State Information Protection Agency (SIPA), which will be a full governmental police agency and under which anti-money laundering functions will exist; however, there are some in the State-level Ministry of Finance who would like the FIU to remain there and not have police functions. There is also some question as to the amount of the cash threshold for currency transactions. The OHR would like a KM 30,000 threshold for this law, but a threshold has not yet been defined. The draft has been submitted to the Council of Ministers and is expected to be passed by the BiH parliament early in 2004. In addition, the Central Bank Governor has proposed creating a federal-level Banking Agency.

A National Action Plan, adopted in October 2003, incorporates Council of Europe recommendations against corruption and organized crime.

On October 21, 2002, High Representative Paddy Ashdown put in place amendments to Federation and RS Banking Laws, banning the use of money for terrorism. Citizens of BiH can be prosecuted for terrorism financing when a terrorist act is committed abroad; noncitizens can be extradited. BiH will not extradite its own citizens, but will prosecute on its own. The amendments provide Federation and RS Banking Agencies with clear legal authority to freeze assets of suspected terrorists. Ashdown implemented the amendments to provide the banking agencies with undisputed legal authority to block bank accounts and with protection from frivolous lawsuits. After September 11, 2001, the Financial Police began tracking the financial dealings of charitable organizations. Assets from six such organizations have been frozen. Members of the FFP testified at the Chicago trial of the head of the Benevolent International Foundation; their investigation began with a fraud inquiry in the Federation.

In the past year, the Federation has taken significant strides to combat terrorist financing and to comply fully with UN Security Council resolutions (UNSCRs). Despite little political support, the FFP and the FBA have blocked the financial and property assets of all individuals and NGOs on the

terrorist finance UNSCR lists and are conducting investigations of other NGOs suspected of connections to al-Qaida.

Mutual Legal Assistance Treaties that had been signed by either Yugoslavia or the Kingdom of Serbia have carried over into BiH. There is no formal bilateral agreement between the United States and BiH regarding the exchange of records in connection with narcotics investigations and proceedings. Local authorities have made good faith efforts to exchange information informally with officials from the USG and regional states, particularly Slovenia and Croatia, but lack the professional capacity and the political support to conduct complex investigations or participate fully in international financial and law enforcement fora such as Interpol and the Financial Action Task Force.

BiH is a party to the 1988 UN Drug Convention but is hampered by the lack of State-level law enforcement authority. BiH became a party to the UN Convention against Transnational Organized Crime on April 24, 2002 and to the UN International Convention for the Suppression of the Financing of Terrorism on June 10, 2003. BiH has historically proven unable or unwilling to pass implementing legislation to ensure the entry-into-force of international conventions to which it is a signatory.

BiH should effectively implement existing laws and banking regulations. BiH should also enact its pending law, the "Prevention of Money Laundering and Terrorist Financing", centralize regulatory and law enforcement authority and establish a FIU at the State level. Tipping off should also be prohibited. Significant training should be implemented so that law enforcement, prosecutors and judges will have a better understanding of money laundering and how to pursue it. Authorities would also be well served to consider how best to implement plans to harmonize any remaining legislation, and to work toward the establishment of competent state-level institutions.

## Botswana

Botswana is a developing regional financial center as well as a nascent offshore financial center. Botswana has a relatively well-developed banking sector and is vulnerable to money laundering.

Section 14 of the Proceeds of Serious Crime Act of 1990 criminalizes money laundering related to all serious crimes. The Bank of Botswana requires financial institutions to report any transaction in which Pula 10,000 ($2,325) or more is transferred. The Bank of Botswana has the discretion to provide information on large currency transactions to law enforcement agencies. In 2001, Botswana amended the Proceeds of Serious Crimes Act to require identification of financial bodies and owners of corporations and accounts. Additionally, Section 44 of the Banking Act of 1995 requires banks to exercise due diligence, and any bank which acts in breach of the requirements of this section is guilty of an offense and liable for a fine. The Bank of Botswana may revoke the license of a bank where the bank in question has been convicted by any court of competent jurisdiction of an offense related to the use or laundering of illegal proceeds. License revocation also applies if the bank is the affiliate, subsidiary or parent company of a bank which has been convicted.

In 2003, the Government of Botswana enacted the Banking (Anti-Money Laundering) Regulations, which are minimum guidelines to banks on the application of international best practices on anti-money laundering. The new regulations require banks to record and verify the identification of all personal and corporate customers. Banks must maintain all records on transactions, both domestic and international, for at least five years in order to comply expeditiously with information requests from the Financial Intelligence Agency and other law enforcement authorities.

The 2003 Banking Regulations also require financial institutions to report suspicious transactions. For reporting purposes, banks must designate an employee at management level as a money laundering reporting officer, who serves as a contact between the bank, the Central Bank, and the Financial Intelligence Agency. In practice, financial institutions regularly submit reports of suspicious transactions to the Directorate on Corruption and Economic Crime.

Botswana is in the early stages of developing an offshore financial center; and consequently, licenses offshore banks and businesses. Background checks are performed on applicants for offshore banking and business licenses, as well as on their directors and senior management. The bank supervisory standards applied to domestic banks are applicable to offshore banks as well. The Bank of Botswana has licensed two offshore banks, but only one has commenced operations.

Bank and business directors are subject to the "fit and proper test" required by Section 29 of the Banking Act of 1995. Anonymous directors are not allowed. Offshore trusts are prohibited in Botswana. There are no known offshore international business companies, exempt companies, or shell companies operating in the Botswana offshore financial center.

There were no prosecutions for money laundering or terrorist financing in 2003. Terrorist financing is not criminalized as a specific offense in Botswana. However, acts of terrorism and related offenses, such as aiding and abetting, can be prosecuted under the Penal Code and under the Arms and Ammunitions Act. The Bank of Botswana has circulated to financial institutions the names of suspected terrorist individuals and groups on the UN 1267/1390 consolidated list, as well as lists provided by the United States Government and the European Union. Under the Proceeds of Serious Crime Act, 1990 the jurisdiction has the authority to confiscate proceeds of terrorist finance-related assets.

In 2001, an International Law Enforcement Academy (ILEA) opened in Gaborone. The ILEA provides training in money laundering and other law enforcement areas to countries in the southern region of Africa.

Botswana is a party to both the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. Botswana is also a party to the UN Convention against Transnational Organized Crime. Botswana officially became a member of the Eastern and Southern African Anti-Money Laundering Group in February 2003.

Botswana has recently strengthened its anti-money laundering regime by enacting the Banking (Anti-Money Laundering) Regulations, which requires financial institutions to report suspicious activity. Botswana should also establish a Financial Intelligence Unit (FIU) that would receive suspicious activity reports and would be capable of sharing information with other FIUs and law enforcement agencies internationally.

## Brazil

Due to its great size and large economy, Brazil is considered a regional financial center but not an offshore financial center. Brazil maintains adequate banking regulation, retains some controls on capital flows, and requires disclosure of the ownership of corporations. Brazilian authorities report that money laundering in Brazil is primarily a problem of domestic crime, including the smuggling of contraband goods and corruption, both of which generate funds that may be laundered through the banking system, real estate investment or financial asset markets. The proceeds of narcotics trafficking and organized criminal activities are laundered in a similar fashion.

According to Brazilian authorities, Brazilian institutions do not engage in currency transactions that include significant amounts of U.S. currency, currency derived from illegal drug sales in the U.S., or that otherwise significantly affect the U.S. The authorities believe that organized crime groups use the proceeds of domestic drug trafficking to purchase weapons from Colombian guerilla groups.

The GOB has a comprehensive anti-money laundering regulatory regime in place. Law 9.613 of March 3, 1998, criminalizes money laundering related to drug trafficking, terrorism, arms trafficking, extortion, and organized crime, and penalizes offenders with a maximum of 16 years in prison. The law expands the GOB's asset seizure and forfeiture provisions and exempts "good faith" compliance

from criminal or civil prosecution. Regulations issued in 1998 require that individuals transporting more than 10,000 reais (then approximately $10,000, now approximately $3,400) in cash, checks, or traveler's checks across the Brazilian border must fill out a customs declaration that is sent to the Central Bank. Financial institutions remitting more than 10,000 reais also must make a declaration to the Central Bank. On June 11, 2002, then President Cardoso signed Law 10.467, which modified Law 9.613. The new law put into effect Decree 3,678 of November 30, 2000, which penalizes active corruption in international commercial transactions by foreign public officials. Law 10.467 also added penalties for this offense under Chapter II of Law 9.613.

Law 9.613 also created a financial intelligence unit (FIU), the Council for the Control of Financial Activities (COAF), which is housed within the Ministry of Finance. The COAF includes representatives from regulatory and law enforcement agencies, including the Central Bank and Federal Police. The COAF regulates those financial sectors not already under the jurisdiction of another supervising entity. Currently, the COAF has a staff of 28, comprised of 18 analysts, two international organizations specialists, a counterterrorism specialist, and support staff. A new director was appointed in February 2004.

Between 1999 and 2001, the COAF issued a series of regulations that require customer identification, record keeping, and reporting of suspicious transactions to the COAF by obligated entities. Entities that fall under the regulation of the Central Bank, the Securities Commission (CVM), the Private Insurance Superintendence (SUSEP), and the Office of Supplemental Pension Plans (PC), file suspicious activity reports (SARs) with their respective regulator, either in electronic or paper format. The regulatory body then electronically submits the SARs to COAF. Entities that do not fall under the regulations of the above-mentioned bodies, such as real estate brokers, money remittance businesses, factoring companies, gaming and lotteries, dealers in jewelry and precious metals, bingo, credit card companies, commodities trading, and dealers in art and antiques, are regulated by the COAF and send SARs directly to the FIU either via the Internet or using paper forms. All of these regulations include a list of guidelines that help institutions identify suspicious transactions. The COAF receives roughly 300 to 500 SARs per month, about two percent of which lead to investigations by law enforcement.

The Central Bank has established the Departamento de Combate a Ilícitos Cambiais e Financeiros; Department to Combat Exchange and Financial Crimes (DECIF) to implement anti-money laundering policy, examine entities under the supervision of the Central Bank to ensure compliance with suspicious transaction reporting, and forward information on the suspect and the nature of the transaction to the COAF. Until January 2001, bank secrecy protected the name of the bank and the account number, and transaction details. While the Central Bank had access to the information, other government agencies—except for congressional investigative committees—required a court order to access detailed bank account information. The GOB addressed this problem by enacting Complementary Law No. 105 and its implementing Decree No. 3,724 in January 2001. These allow for complete bank transaction information to be provided to government authorities, including the COAF, without a court order. On January 11, 2002, then President Cardoso signed Brazil's new omnibus drug legislation, which allows for the suspension of bank secrecy during drug trafficking investigations. The president vetoed Chapter III of this law, which would have reduced the penalty for money laundering from the previous legislation's three to ten years, to one to two years, plus fines.

On July 9, 2003, Law 10.701 was passed to modify Law 9.613 of 1998. Law 10.701 criminalizes terrorist financing and makes it a predicate offense for money laundering. The law also establishes crimes against foreign governments as a predicate offenses, requires the Central Bank to create and maintain a registry of information on all bank account holders, and enables the COAF to request from all government entities financial information on any subject suspected of involvement in criminal activity. Other measures enacted in 2003 required banks to report cash transactions exceeding 100,000 reais (approximately $34,000) to the Central Bank, established a department within the Ministry of

Justice to recover financial assets, and designated a representative from the Ministry of Justice to the COAF.

Brazil has established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets. The COAF and the Ministry of Justice manage these systems jointly. Police authorities and the customs and revenue services are responsible for tracing and seizing assets, and have adequate police powers and resources to perform such activities. The judicial system has the authority to forfeit seized assets. Brazilian law permits the sharing of forfeited assets with other countries. Traffickers have not taken any retaliatory actions related to money laundering investigations, government cooperation with the U.S. Government, or the seizure of assets.

Brazil has a limited ability to employ advanced law enforcement techniques such as undercover operations, controlled delivery, and use of electronic evidence and task force investigations that are critical to the successful investigation of complex crimes, such as money laundering. Generally such techniques can be used only for information purposes, and are not admissible in court. In 2003, Brazilian courts handed down their first criminal conviction for money laundering. The case involved illegal transfers of money overseas through a currency exchange in Foz do Iguacu. A flood of new investigations (1,043 in 2003, up from 345 in 2002) has led to a sharp spike in the number of money laundering cases going to court (132 in 2003, up from 34 in 2002). To deal with the increased caseload, Brazilian authorities have created seven special money laundering courts and expect to create one more. The judges in these courts generally have received some specialized training to deal with money laundering cases.

Money laundering in Brazil is primarily related to drugs, corruption, and trade in contraband. In 2003 the GOB continued investigating corrupt public figures, including customs inspectors, federal tax authorities, and high-ranking politicians, and the use of offshore companies by Rio de Janeiro firms to launder money. In 2002 COAF also began investigating instances of money laundering linked to the sale and purchase of luxury automobiles. This market is currently an unregulated sector in Brazil. Other schemes involve the purchase of winning lottery tickets to justify the increase of funds. Under Brazil's anti-money laundering law, the lottery sector must notify COAF of the names and data of any winners of three or more prizes equal to or higher than 10,000 reais within a 12-month period.

Investigations into the scandal involving Banestado, the state bank of Parana, continued in 2003. In 1995, five banks in the triborder region of Brazil, Paraguay, and Argentina, including Banestado, were authorized to open currency exchange accounts, known as CC-5 accounts. CC-5 accounts quickly became used as a means of laundering money. Money changers opened hundreds of fake CC-5 accounts, into which criminals deposited millions of reais. The money was then wired in dollars to the Banestado branch in New York City and from there to other banks, usually in countries considered to be tax havens. The money changers and Banestado officials took cuts from each transaction. Over 250 phony CC-5 accounts have been identified and it is suspected that as much as $30 billion passed through CC-5 Banestado accounts in the U.S. between 1996 and 1999, a portion of which was likely laundered.

The COAF has responded to U.S. Government efforts to identify and block terrorist-related funds. Since September 11, 2001, COAF has run inquiries on over 700 individuals and entities, and has searched its financial records for entities and individuals on the UN 1267 Sanctions Committee's consolidated list. None of the individuals and entities on the consolidated list were found to be operating or executing financial transactions in Brazil, and the GOB insists there is no evidence of terrorist financing in the area. However, the tri-border area, which is well known for arms and drug trafficking and international property rights crimes, and lacks currency controls and cross-border reporting requirements, is suspected the to be a source of terrorist financing. In November 2003, the GOB extradited an alleged financier to Paraguay on charges of tax evasion.

The GOB has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism and the OAS Inter-American Convention on Terrorism. In 2000 Brazil became a full member of the Financial Action Task Force (FATF), and a founding member of GAFISUD, the FATF for South America, and has sought to comply with the FATF Eight Special Recommendations on Terrorist Financing. Brazil is a party to the 1988 UN Drug Convention and has signed, but not ratified, the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. On December 9, 2003, the GOB signed the UN Convention Against Corruption, which is not yet in force internationally. Brazil is also a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. The COAF has been a member of the Egmont Group since 1999. In February 2001, the Mutual Legal Assistance Treaty between Brazil and the United States entered into force.

The GOB criminalized the financing of terrorism in 2003 and should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and to the OAS Inter-American Convention on Terrorism. In order to continue to successfully combat money laundering and other financial crimes, Brazil should also develop legislation to regulate the sectors in which money laundering is an emerging issue. Brazil should enact and implement legislation to provide for the effective use of advanced law enforcement techniques in order to provide its investigators and prosecutors with more advanced tools to tackle sophisticated organizations that engage in money laundering, financial crimes, and terrorist financing. In addition, the GOB and the COAF must continue to fight against corruption and ensure the enforcement of existing anti-money laundering laws.

## British Virgin Islands

The British Virgin Islands (BVI) is a Caribbean overseas territory of the United Kingdom (UK). The BVI is vulnerable to money laundering due to its financial services industry. Tourism and financial services account for approximately 50 percent of the economy. The offshore sector offers incorporation and management of offshore companies, and provision of offshore financial and corporate services. The BVI has approximately 13 banks, 1800 mutual funds, 140 captive insurance companies, 1000 registered vessels, 90 licensed general trust companies, and approximately 360,000 active international business companies (IBCs). The BVI underwent an evaluation of its financial regulations in 2000, co-sponsored by the local and British governments.

According to the International Business Companies Act of 1984, BVI-registered IBCs cannot engage in business with BVI residents, provide registered offices or agent facilities for BVI-incorporated companies, or own an interest in real property located in the BVI except for office leases. BVI has approximately 90 registered agents that are licensed by the Financial Services Commission (FSC), which was established December 7, 2001. Registered agents must verify the identities of their clients. The process for registering banks, trust companies, and insurers is governed by legislation that requires more detailed documentation, such as a business plan and vetting by the appropriate supervisor within the FSC. The law transfers responsibility for regulatory oversight of the financial services sector from a government body, the Financial Services Department, to an autonomous regulatory body, the FSC.

In 2000, the Information Assistance (Financial Services) Act (IAFSA) was enacted to increase the scope of cooperation between BVI's regulators and regulators from other countries. On December 29, 2000, the Anti-Money Laundering Code of Practice of 1999 (AMLCP) entered into force. The AMLCP establishes procedures to identify and report suspicious transactions. The AMLCP also requires covered entities to create a clearly defined reporting chain for employees to follow when reporting suspicious transactions and to appoint a reporting officer to receive these reports. The

reporting officer must conduct an initial inquiry into the suspicious transaction and report it to the authorities if sufficient suspicion remains. Failure to report could result in criminal liability.

The Proceeds of Criminal Conduct Act of 1997 expanded predicate offenses for money laundering to all criminal conduct, and allows the BVI Court to grant confiscation orders against those convicted of an offense or who have benefited from criminal conduct. The law also creates a financial intelligence unit (FIU), referred to as the Reporting Authority-Financial Services Inspectorate and responsible for the collection of suspicious activity reports. The FIU is currently undergoing a reorganization and name change to the Financial Investigation Agency. The Financial Investigation Agency Act 2003 passed the House and is currently with the Governor to sign and implement. The legislation is expected to come into force in February 2004.

The BVI has also proposed the Code of Conduct (Service Providers) Act (CCSPA), which would encourage professionalism, enhance measures to deter criminal activity, promote ethical conduct, and encourage greater self-regulation in the financial sector. The CCSPA also would establish the Council of Service Providers, a body that would regulate the conduct of individuals within the financial services industry. Additionally, the CCSPA would formulate policy, procedures, and other measures to regulate the industry, advise the government on legislation and policy matters, and monitor compliance within the industry.

The Joint Anti-Money Laundering Coordinating Committee (JAMLCC) was established in 1999 to coordinate all anti-money laundering initiatives in the BVI. The JAMLCC is a broad-based, multi-disciplinary body comprised of private and public sector representatives. The Committee has drafted Guidance Notes based on those of the UK and Guernsey. Reportedly, in the summer of 2003, the BVI completed an internal assessment of its financial service sector and is in the process of considering specific but as of yet unreported recommendations regarding its financial service sector.

The BVI is a member of the Caribbean Financial Action Task Force, and is subject to the 1988 UN Drug Convention. Application of the U.S./UK Mutual Legal Assistance Treaty concerning the Cayman Islands was extended to the BVI in 1990. The FIU is a member of the Egmont Group.

The BVI should criminalize the financing of terrorists and terrorism and take measures necessary to implement the FATF Special Eight Recommendations on Terrorist Financing. The BVI should continue to strengthen its anti-money laundering regime by implementing legislation that would regulate the conduct of individuals within the financial sector.

## Brunei

The Government of Brunei adopted anti-money laundering legislation, the Money Laundering Order, in 2000. Also in 2000, Brunei implemented an asset seizure and forfeiture law, the Criminal Conduct (Recovery of Proceeds) Order. This legislation applies both domestically and to the offshore sector. In 2002, Brunei enacted the Drug Trafficking Recovery of Proceeds Act and the Anti-Terrorism Financial and other Measures Orders.

In 2001, Brunei actuated its plans to become an offshore financial center. The Brunei Darussalam brought into effect a series of laws that established the Brunei International Financial Center (BIFC). The relevant laws are: the International Business Companies Order 2000; the International Banking Order 2000; the Registered Agents and Trustees Licensing Order 2000; the International Trusts Order 2000; the International Limited Partnerships Order 2000; the Mutual Fund Order 2000, the Securities Order 2000 and the International Insurance and Takaful Order 2000. The BIFC launched a virtual Stock Exchange in 2002. The BIFC offers banking, Islamic banking, insurance, international business companies (IBCs), trusts (including asset protection trusts) mutual funds, and securities services. Bearer shares are not permitted, but nominee shareholders are allowed for IBCs. Brunei residents are allowed to become shareholders of IBCs. At present 370 companies are on the Brunei International

Financial Center database. The Government also recently established the Brunei Economic Development Board (BEDB) to attract more foreign direct investment. There are no exchange controls.

Brunei has no Central Bank. The Authority, a segregated unit of the Ministry of Finance, acting through the Financial Institutions Division and the Head of Supervision, oversees the BIFC. This unit combines both regulatory and marketing responsibilities. The Authority is a multi-disciplinary unit with individuals with banking, insurance, corporate and trust supervisory skills.

Brunei is a party to the 1988 UN Drug Convention and to the UN International Convention for the Suppression of the Financing of Terrorism. On November 5, 2001, Brunei signed the Association of Southeast Asian Nations (ASEAN) Declaration on Joint Action to Counter Terrorism, and on November 3, 2002 Brunei joined the other ASEAN countries in adopting a Declaration on Terrorism by the 8th ASEAN Summit. On August 1, 2002, Brunei, on behalf of the other ASEAN countries, signed the nonbinding ASEAN-United States of America Joint Declaration for Cooperation to Combat International Terrorism. Brunei is an observer jurisdiction to the Asia/Pacific Group on Money Laundering (APG). Brunei became a member of the Asia/Pacific Group on Money Laundering (APG) in 2003 and has undertaken compliance with the APG's Terms of Reference, which include a commitment to adopt the international standards contained in the revised Financial Action Task Force Forty Recommendations on Money Laundering and its Special Eight Recommendations on Terrorist Financing. to the procedures for the evaluation of the effectiveness of its anti-money laundering systems. Also in 2003 Brunei acceded to the ASEAN pact on cooperation against terrorism and transnational crime—the Agreement on Information Exchange and Establishment of Communication Procedures

Brunei should continue to enhance its anti-money laundering regime by separating the regulatory and marketing functions of the Authority to avoid potential conflict of interest. Additionally, Brunei should adequately regulate its offshore sector to reduce its vulnerability to misuse by terrorist organizations and their supporters. For all IBCs, Brunei should provide for identification of all beneficial owners. Brunei's Anti-Terrorism Financial and other Measures Orders 2002 explicitly criminalizes the financing and support of terrorism.

## Bulgaria

Bulgaria is not considered an important regional financial center. However, Bulgaria is a major transit point for drugs into Western Europe, and its financial system remains vulnerable to money laundering related to narcotics trafficking and other organized crimes, such as fraud, embezzlement, tax evasion, smuggling, prostitution, and extortion. The sources of criminal proceeds moved through Bulgaria include Eastern Europe, the former Soviet Union, Turkey, and the Middle East, with the aim of introducing such proceeds into the Western European and United States financial systems. Bulgaria remains largely a cash economy. Although euro-based transactions have increased in the past year, in particular, the U.S. dollar remains a favored currency for financial transactions. The presence of organized criminal groups and official corruption contribute to Bulgaria's money laundering problem. Although the Government of Bulgaria (GOB) continues its efforts to address serious crime, lax enforcement remains an issue.

Money laundering was criminalized in 1997 via Articles 253 and 253(a) of the Penal Code. In 2001, the code was amended to add a 30-year prison penalty if the money laundering is linked with narcotics trafficking. The legislation takes an "all-crimes" approach, as opposed to a list approach, meaning that any crime may serve as a predicate crime for money laundering. Penalties for these predicate crimes are not addressed in the money laundering Articles but are addressed elsewhere in the Penal Code. Other administrative money laundering provisions contained in the Law Against Money Laundering Measures address customer identification and record keeping requirements, suspicious transactions

reporting, and internal rules for financial institutions on implementation of an anti-money laundering program. Banks, securities brokers, auditors, accountants, insurance companies, investment companies, and other businesses are subject to these reporting requirements. Customs rules require the declaration of all Bulgarian and foreign currency in cash, including traveler's checks, in excess of BGN 8,000 (4,090 euros). Due to corruption and inefficiency in the Customs Service, enforcement of this requirement is irregular.

During April 2003, Parliament passed legislation amending the Law on Measures Against Money Laundering—further strengthening anti-money laundering measures. The amendments extend the types of obligated institutions and groups to include lawyers, real estate agents, auctioneers, tax consultants and security exchange operators, and requires listed reporting entities to demand an explanation of the source of funds for "operations or transactions in an amount greater than BGN 30,000 (15,339 euros) or its equivalent in foreign currency; or exchange of cash currency in an amount of BGN 10,000 (5,113 euros) or its equivalent in foreign currency." However, shortly after passage of the new law, the requirements for reporting for lawyers were amended to mandate actual knowledge of money laundering by a client to prevent a conflict with rules of legal ethics. The legislation also introduces a currency transaction reporting requirement of 30,000 leva, (15,000 euros), thus bringing Bulgaria into full compliance with the EU Second Directive on Money Laundering. This last requirement will not become effective until 2004, because Bulgaria's financial intelligence unit (FIU) is currently not technologically capable of processing these reports.

The legislation also changed the name of Bulgaria's FIU from the Bureau of Financial Intelligence to the Financial Intelligence Agency (FIA), commensurate with its status as a full agency within the Ministry of Finance. It further institutionalizes and guarantees functional independence of the unit's director and provides for a supervisor within the Ministry of Finance who can oversee the activities of the FIA but is prohibited by law from issuing operational commands. The FIA is authorized to obtain all information without needing a court order, to share all information with law enforcement, and to receive reports of suspected terrorism financing. In September 2003, Bulgaria's anti-money laundering legislation was determined to be in full compliance with all EU standards.

Under the Stability Pact Anti-Corruption Initiative (the Stability Pact is a European institutional democratization initiative signed by former Communist countries to help re-establish them as modern states), the GOB has committed to sign, ratify, and implement the Council of Europe Criminal Law Convention on Corruption; apply the Twenty Guiding Principles for the fight against corruption by the Committee of Ministers of the Council of Europe; and implement the FATF Forty Recommendations.

In the fall of 2003, the GOB approved final amendments to its constitution that add overall transparency to the Bulgarian legal system through changes to the immunity, length of tenure, and conflict of interest rules of magistrates and the judiciary.

In the first ten months of 2003, the FIA received 226 suspicious transaction reports (STRs) regarding over 118 million euros. On the basis of the STRs, 195 cases were opened. The FIA sent 106 cases, representing over 71 million euros, to the Supreme Prosecutor's Office of Cassation, and 69 reports, with a total of over 35 million euros, to the Ministry of Interior. Since high-value dealers have been required to report since 2001, and there is no supervisory authority, the FIA acts as the compliance authority for this sector. To date, the banking sector has been responsible for the largest number of STRs. The absence of reports from exchange bureaus, casinos, nonbank financial institutions, dealers in high-value goods and other reporting entities does not mean that money laundering is not occurring in those institutions. Rather, there is lax enforcement of the requirement to file STRs. The FIA is also authorized to perform on-site compliance inspections. Notwithstanding the increase in activity, the FIA remains handicapped technologically, but is working on improving its database and its management to make it more efficient for the analysts' use. The FIA also cooperates with other FIUs,

sending 197 requests for information to foreign FIUs (of which 128 were answered) and receiving 76 requests for assistance from foreign FIUs (the FIA has replied to 65 so far).

Law enforcement officers from the Ministry of Interior (MOI) and investigating magistrates from the National Investigative Service (NIS) investigate money laundering and the predicate criminal activity leading to it. The FIA is an administrative unit and does not do active criminal investigations. Once the FIA refers a case, the Prosecutor's Office has the ability to refer the case to either the MOI or the NIS. The FIA does have the authority to appeal determinations by the Prosecutor's Office that an STR referred by the FIA does not merit prosecution. Although money laundering has been pursued in court cases, there has never been a conviction for the crime and very few successful prosecutions for other financial crimes and predicate criminal activity that give rise to money laundering. Prosecutors, investigators, and law enforcement officials, especially at the district level, lack significant training in money laundering, which contributes to the lack of success in pursuing money laundering cases.

Bulgaria has strict and wide-ranging banking, tax and commercial secrecy laws. While the FIA enjoys an exemption from them, they otherwise apply to all other government institutions and often are cited as an impediment to the performance of legitimate law enforcement functions. The Bulgarian Ministry of Interior drafted an asset forfeiture law in 2002. U.S. and European experts assessed the draft law as draconian and deficient. The GOB is still considering legislation addressing forfeiture and seizure of criminal assets, indictment of legal entities on money laundering charges, and prohibiting the use of funds of dubious or criminal origin in acquiring banks and businesses during privatization.

The GOB amended its Penal Code at Article 108a to criminalize terrorism and terrorist financing. Terrorist acts and financing qualify as predicate crimes under Bulgaria's "all crimes" approach. The GOB also enacted the Measures against the Financing of Terrorism in February 2003, which links antiterrorist measures in place with financial intelligence. The law was passed in accordance with the Financial Action Task Force on Money Laundering (FATF) Eight Special Recommendations on Terrorist Financing. The law legislates a link between the FIA and the STRs it receives, and terrorism financing, and authorizes the agency to use its financial intelligence to that end as well as in fighting money laundering.

The state now may also freeze assets of a suspected terrorist for up to 45 days and may compel all obligated entities to report suspicion of terrorism financing or pay a penalty of 25,000 leva. The various lists generated by the UN, EU and U.S. of individuals and entities associated with terrorism have been circulated by the financial intelligence unit in cooperation with the Bulgarian National Bank to the commercial banking sector and elsewhere. To date, no suspected terrorist assets appear to have been identified, frozen or seized by Bulgarian authorities.

There are no known initiatives underway to address the issue of alternative remittance systems. Although they may operate here, Bulgarian officials have not acknowledged their existence, including by promoting establishment of a legislative or regulatory regime.

The U.S. does not have a mutual legal assistance treaty with Bulgaria, although Bulgarian officials have expressed interest in negotiating one. Information is exchanged formally through the letter rogatory process. Currently, the FIA has bilateral memoranda of understanding regarding information exchange relating to money laundering with Belgium, the Czech Republic, Latvia, the Russian Federation, and Slovenia.

Bulgaria is a member of the Council of Europe (COE) and participates in the COE's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). The FIA is a member of the Egmont Group and participates actively in information sharing with foreign counterparts. Bulgaria is a party to the 1988 UN Drug Convention and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. Bulgaria is a party to the UN Convention against Transnational Organized Crime and the UN International

Convention for the Suppression of the Financing of Terrorism. In December 2003, the GOB signed the UN Convention Against Corruption.

Although Bulgaria has done well to enact legislative changes consistent with international anti-money laundering standards, lack of enforcement remains an issue. There appears to be no political will to amend unduly broad bank secrecy provisions that are said to hamper law enforcement efforts, and the banking community has a very strong lobby within Parliament. The GOB must take steps to improve and tighten its regulatory regime and the consistency of its Customs reporting enforcement. The GOB should enact and implement proposed measures that will address forfeiture and seizure of criminal assets and the indictment of legal entities on money laundering charges. The GOB should also establish procedures to identify the origin of funds used to acquire banks and businesses during privatization. The FIA should increase its staff to full capacity and incorporate technological improvements. The FIA should also continue to work in harmony with all institutions having a role to play in combating money laundering to ensure implementation of the anti-money laundering regime and to improve prosecutorial effectiveness in money laundering cases.

## Burkina Faso

Burkina Faso is not a regional financial center. Although the economy is primarily cash-based, there are seven banks and a system of credit unions in Burkina Faso. Only an estimated six percent of the population have bank accounts.

The Central Bank of West African States (BCEAO), based in Dakar, Senegal, is the Central Bank for the countries in the West African Economic and Monetary Union (WAEMU): Benin, Burkina Faso, Guinea-Bissau, Cote d'Ivoire, Mali, Niger, Senegal, and Togo, all of which use the French-backed CFA franc currency. All bank deposits over approximately $7,700 made in BCEAO member countries must be reported to the BCEAO, along with customer identification information.

Burkina Faso is currently transposing WAEMU regulations regarding fighting financial crimes and money laundering into law. In September 2003, the WAEMU Council of Ministers issued a directive laying out the judicial framework for fighting money laundering. The draft aims to define a legal framework for money laundering in order to prevent the use of WAEMU economic, financial, and bank channels to recycle money or other illicit goods.

The law has been sent to member states. Each state will adopt it as a national law on money laundering. The Burkinabe Treasury Department and the Ministry of Justice, which gave its advisory opinion, have now approved the draft. The final stages include approval of the Cabinet and the adoption by the National Assembly. After the adoption, the Government of Burkina Faso (GOBF) will set up a committee to follow up with all financial data.

In the area of financial crimes, WAEMU issued on June 26, 2003 a decision concerning the list of individuals and entities involved in terrorist finance. The decision aims to implement in WAEMU member countries measures for freezing money and other financial resources taken by the UNSC Sanction Committee as per UNSCR 1267 and 1373. The decision has been forwarded to the Burkinabe Treasury Department and banks for implementation.

In 2000, the Economic Community of West African States (ECOWAS) established the Intergovernmental Group for Action Against Money Laundering (GIABA), based in Dakar, Senegal. In November 2002 GIABA hosted an anti-money laundering seminar for representatives of 14 ECOWAS members, including Burkina Faso. In July 2002 Togo participated in the 2002 West African Joint Operation Conference (WAJO) that promotes regional law enforcement cooperation against narcotics trafficking, terrorism, and money laundering.

Burkina Faso has signed and ratified the UN Convention against Transnational Organized Crime. Burkina Faso is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism.

Burkina Faso should criminalize money laundering and terrorist financing as part of a viable anti-money laundering regime.

## Burma

Burma has a mixed economy with private activity dominant in agriculture and light industry, and with substantial state-controlled activity, mainly in energy and heavy industry. Burma's economy continues to be vulnerable to drug money laundering due to its under-regulated financial system, weak anti-money laundering regime, and policies that facilitate the funneling of drug money into commercial enterprises and infrastructure investment.

On November 3, 2003, the Financial Action Task Force (FATF) called upon member countries, including the United States, to impose countermeasures against Burma for its failure to pass a mutual legal assistance law and to issue implementing regulations to accompany the June 2002 "Control of Money Laundering Law," State Peace and Development Council Law No. 6/2002. The U.S. immediately issued two proposed rules that would declare Burma, and two private banks in Burma, Asia Wealth and Myanmar Mayflower, entities of "primary money laundering concern." These two institutions have been linked to narcotics-trafficking organizations in Southeast Asia. The rules, pursuant to the 2001 USA PATRIOT Act, cut off any U.S. banking relationship with the two banks without exceptions, and with other Burmese financial institutions except in special cases. In December 2003 the Burmese government announced an investigation of the two private banks.

Burma was already under a separate U.S. Treasury Department advisory, stating that U.S. financial institutions should give enhanced scrutiny to all financial transactions relating to Burma. The more recent November 2003 proposed sanctions under Section 311 of the USA PATRIOT Act came after the passage of the Burma Freedom and Democracy Act by both houses of Congress in July 2003. This act had imposed economic sanctions on Burma following the May 2003 attack on Burmese pro-democracy leader Aung San Suu Kyi and her convoy. The sanctions prohibited the import of Burmese-produced goods into the U.S., froze the assets of identified Burmese institutions, and mandated that U.S. financial institutions holding funds belonging to members of the ruling junta report the assets to the Department of Treasury's Office of Foreign Assets Control.

On December 5, 2003, the Burmese Government unexpectedly released the regulations necessary to implement the June 2002 law. On paper, these regulations provide some detail on the roles and responsibilities of the relevant regulatory and enforcement bodies, though they do not address the issue of the need for a mutual legal assistance law. The 2003 regulations lay out 11 predicate offenses, including narcotics activities, human and arms trafficking, cyber crime, and "offenses committed by acts of terrorism," among others. Burma's earlier 1993 narcotics control law criminalized money laundering only if it was related to narcotics trafficking. The new regulations call for suspicious transaction reports (STRs) by banks, the real estate sector, and customs officials, and impose severe penalties. However, they do not set threshold financial or time limits and create significant loopholes. The regulations will be applied retroactively to June 2002, the date of the passage of the original law, once threshold amounts are established.

The 2003 regulations task the government's Central Control Board on Money Laundering with forming the Burmese financial intelligence unit (FIU). The Minister for Home Affairs will chair the Board. It will have full access to all financial records and the authority to cooperate with other international anti-money laundering groups. The Central Control Board will also set policy, direct the Investigation Body that performs money laundering investigations and conducts asset seizures, direct

the Preliminary Scrutiny Body that ensures due process and finalizes a case, and cooperate with other international anti-money laundering entities.

The June 2002 law was passed in response to events going back a full year earlier. In June 2001, the FATF identified Burma as noncooperative in international efforts to fight money laundering (NCCT). This designation was based on Burma's lack of basic anti-money laundering provisions. Money laundering had not been criminalized for crimes other than narcotics trafficking, and there were no record keeping or reporting requirements. Additionally, oversight of the banking sector was weak, and there were obstacles to international cooperation. Subsequent to the FATF's naming of Burma as an NCCT, the U.S. Treasury Department issued an advisory to U.S. financial institutions, warning them to give enhanced scrutiny to all financial transactions relating to Burma. Both actions remain in force.

The Burmese Government passed the Control of Money Laundering Law (The State Peace and Development Council Law No. 6/2002) on June 17, 2002. In addition to the features of the law described above, it also required financial institutions to maintain records for at least five years and made money laundering punishable by imprisonment.

Burma is an observer jurisdiction to the Asia/Pacific Group on Money Laundering and a party to the 1988 UN Drug Convention. Over the past several years, the Government of Burma (GOB) has significantly extended its counternarcotics cooperation with other states. The GOB has bilateral drug control agreements with India, Bangladesh, Vietnam, Russia, Laos, the Philippines, China, and Thailand. It is not known whether these agreements cover cooperation on money laundering issues. In 2002-2003 Burma expanded cooperation with Thailand and China to combat trafficking in drugs and precursor chemicals jointly in Northern and Eastern Shan State.

Burma has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. Burma has not signed or ratified the UN Convention against Transnational Organized Crime. Currently, Burma does not provide significant mutual legal assistance or cooperation to overseas jurisdictions in the investigation and prosecution of serious crimes. The UN Office of Drug Control is assisting the GOB in its efforts to draft a mutual legal assistance framework. The GOB is planning to couple the anti-money laundering legislation with proposed mutual assistance legislation to facilitate judicial cooperation between Burma and other states.

Burma must increase the regulation and oversight of its banking system, and end policies that facilitate the investment of drug money in the legitimate economy. Burma should set the reporting thresholds required under its new anti-money laundering legislation and create the institutions and the environment conducive to establishing a viable anti-money laundering regime. Burma should provide the necessary resources to the administrative and judicial authorities that supervise the financial sector and implement fully and enforce its latest regulations to fight money laundering successfully.

## Burundi

Burundi is not a regional financial center, nor does it have occasion to deal in large sums of private money, with the exception of funds provided by the IMF, World Bank, or other donor funds. The government's ability to impose compliance on the banking industry is weak, except in matters of foreign currency exchange. The weakness of the local currency and the government's control of foreign currency exchange are the chief safeguards against money laundering.

There are nine banks operating in Burundi, two of which have partial foreign ownership, Belgium's Belgolaise Bank and the Belgian-based La Generale des Banques. The Burundian Government promulgated a new banking law in October 2003. Money laundering is not specifically mentioned, but article 16 of the new law reads: "Banks and financial institutions are required to refuse the transfer or management of funds connected to illegal activities and to communicate to the Burundi Central Bank all information on such." In addition, Burundian banks must retain records of financial transactions for

a minimum of 15 years, and must surrender banking information if properly requested by judicial authorities. All foreign currency exchanges must be reported to the Central Bank, and all foreign currency exchanges of significant sums must be pre-authorized by the Central Bank.

Burundi has signed both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Ratification of these conventions is on the agenda of the next scheduled session of the Burundian National Assembly, which will begin in February 2004. In addition, the Burundian Government has expressed its willingness to cooperate with the USG on narcotics trafficking, terrorism, and terrorist financing. Burundi has a history of cooperation through Interpol.

To date, there have been no reported cases of money laundering. Burundi should establish specific anti-money laundering laws and develop a comprehensive anti-money laundering regime that comports to international standards. Burundi should also become party to the UN International Convention for the Suppression of the Financing of Terrorism and to the UN Convention against Transnational Organized Crime.

## Cambodia

Cambodia is vulnerable to money laundering. It is a transit country for heroin trafficking from the Golden Triangle. It has a cash-based economy (heavily dollarized), little control over its borders and suffers from widespread corruption, including among officials at the highest levels of government. The National Bank of Cambodia (NBC) has made strides in recent years in beginning to regulate the small banking sector but other nonbank financial institutions, such as casinos, remain outside its jurisdiction. Draft legislation being developed in cooperation with the IMF would go a long way towards setting up the sort of comprehensive financial oversight that does not now exist in Cambodia. But once the legislation is in place, the government would have to meet the challenge of enforcing that framework.

Cambodia is not an important regional financial center. Its banking sector is small, with thirteen general commercial banks and four specialized commercial banks. The National Bank of Cambodia (NBC) has oversight responsibility for the banking sector and, with relatively small numbers of transactions and deposits in the system, believes it exercises comprehensive oversight. There is no indication that the banking financial institutions themselves are engaged in money laundering. With relative political stability and the gradual return of normalcy in Cambodia after decades of war and instability, deposits continue to rise and the economy shows some signs of financial deepening.

The NBC does acknowledge that money laundering occurs in Cambodia. The NBC says that some of this activity is linked to proceeds from narcotics and smuggling. There is a significant black market in Cambodia for smuggled goods, but little to no evidence that smuggling is funded primarily narcotics proceeds. More likely, the majority of smuggling involves more mundane items transported to circumvent official duties and taxes. There is, for example, anecdotal evidence of significant smuggling of fuel, alcohol and cigarettes.

Government officials and their private sector business associates control the smuggling and thus its proceeds. Given the cash-based nature of the economy in Cambodia, there is little need to funnel cash proceeds through the banking system or other financial institutions. Cash can readily be converted into land, housing, luxury goods or other forms of property. It is also relatively easy to hand-carry cash into and out of Cambodia.

The NBC does not have the authority to apply anti-money laundering controls to nonbanking financial institutions such as casinos or other intermediaries, such as lawyers or accountants. The NBC believes that if significant money laundering activity were occurring through casinos in Cambodia, it would be

conducted via cash, carried in and out of the country by hand. The NBC is confident it would learn of any large amounts wired through the banking system for such purposes.

In 1996, Cambodia criminalized money laundering related to narcotics trafficking through the Law on Drug Control. In 1999, the government also passed the Law on Banking and Financial Institutions. These two laws provide the legal basis for the NBC to regulate the financial sector. The NBC also uses the authority of these laws to issue and enforce new regulations. The most recent regulation, dated October 21, 2002, is specifically aimed at money laundering. The decree established standardized procedures for the identification of money laundering at banking and financial institutions. In addition to the NBC, the ministries of Economy and Finance, Interior and Justice also are involved in anti-money laundering matters. An NBC circular dated October 2003 was issued to assist in identifying suspicious transactions and contains helpful examples.

The 1996 and 1999 laws include provisions for customer identification, suspicious transaction reporting, and the creation of the Anti-Money Laundering Commission (AMLC) under the Prime Minister's Office. The composition and functions of the AMLC have not been fully promulgated through additional decrees, and the NBC performs many of the AMLC's intended functions.

The 1999 Law on Banking and Financial Institutions imposed new capital requirements on financial institutions, increasing them from $5 million to $13.5 million. Commercial banks must also maintain 20 percent of their capital on deposit with the NBC as reserves.

Cambodia has assisted neighboring countries with money laundering investigations. Cambodia is not a party to the 1988 UN Drug Convention. On November 11, 2001, Cambodia signed the UN Convention against Transnational Organized Crime.

A Working Group of the National Anti-Drug Committee was formed on November 26, 2003 to prepare draft anti-money laundering legislation and an action plan to fight money laundering and the financing of terrorism. The NBC is the main contributor in this process with the other relevant agencies comprising the Ministries of Interior, Justice, Economy and Finance, and Foreign Affairs. The draft legislation envisions including preventive obligations related to customer due diligence, record keeping, internal controls, reporting of suspicious transactions and establishing an independent Financial Intelligence Unit (FIU) to receive, analyze and disseminate information and to supervise compliance with all relevant laws and regulations.

Among other priority actions, the Cambodian government's draft legislation and action plan to fight money laundering and the financing of terrorism envision the following: criminalizing the financing of terrorism, ratification of relevant UN conventions, regulating and controlling NGOs, reducing the use of cash and encouraging the use of the formal banking system for financial transactions, enhancing the effectiveness of bank supervision, ensuring the use of national ID cards as official documents for customer identification, and regulating casinos and the gambling industry. Although the NBC regularly audits individual banks to ensure compliance with laws and regulations, there were no arrests for money laundering in 2003.

While Cambodia is drafting legislation that would specifically address terrorism financing, it currently does not have any laws that do so. It does cooperate with the U.S. by circulating to financial institutions the list of individuals and entities included on the UN 1267 sanctions committee consolidated list. The NBC reviews the banks for compliance in maintaining this list and reporting any related activity. To date, there have been no reports of terrorist financing using the Cambodian banking sector.

Should sanctioned individuals or entities be discovered using a financial institution in Cambodia, the NBC has the legal authority to freeze the assets but not to seize them.

Prior to the enactment of new anti-money laundering legislation, the Royal Government of Cambodia should implement extant anti-money laundering legislation. New legislation should cover all serious crimes including the financing of terrorism and provide for the creation of a comprehensive anti-money laundering regime. Cambodia should become a party to the UN International Convention for the Suppression of the Financing of Terrorism

## Cameroon

Cameroon is not a regional financial center. Funds generated from the transit of illicit drugs through Cameroon, and the absence of any anti-money laundering legislation, however, make Cameroon vulnerable to money laundering. The Bank of Central African States (BEAC) supervises Cameroon's banking system. BEAC is a regional Central Bank that serves six countries of Central Africa. Over the past year, at the sub-regional level, the Central African Economic and Monetary Union (CEMAC) formed the Central African Action Group Against Money Laundering (GABAC). However, the six-member CEMAC nations have not appointed the requisite officers to GABAC's country affiliates.

On November 20, 2002, the BEAC Board of Directors approved draft anti-money laundering and counterterrorist financing regulations that would apply to banks, exchange houses, stock brokerages, casinos, insurance companies, and intermediaries such as lawyers and accountants in all six member countries. The BEAC submitted the draft regulations to the Ministerial Committee of the CEMAC for approval in the spring of 2003. The CEMAC Ministerial Committee granted adoption of the regulations to the Executive Secretary of the GABAC. The regulations are to be officially adopted during GABAC's inaugural meeting, slated for first quarter 2004.

If approved, the BEAC regulations would treat money laundering and terrorist financing as criminal offenses. The regulations would also require banks to record and report the identity of customers engaging in large transactions. The threshold for reporting large transactions would be set at a later date by the CEMAC Ministerial Committee at levels appropriate to each country's economic situation. Financial institutions would have to maintain records of large transactions for five years.

The regulations would require financial institutions to report suspicious transactions. Under the regulations, each country would establish a National Agency for Financial Investigation (NAFI), which would be responsible for collecting suspicious transaction reports. Bankers and other individuals responsible for submitting suspicious transaction reports would be protected by law with respect to their cooperation with law enforcement entities. If a NAFI investigation were to confirm suspicions of terrorist financing, the Cameroonian government could freeze and seize the related assets. The NAFI could cooperate with counterpart agencies in other countries, although this cooperation would be limited by privacy legislation.

Cameroon is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime, which entered into force in September 2003.

Cameroon should work with the BEAC to establish a viable anti-money laundering and counterterrorist financing regime. Cameroon should also criminalize terrorist financing and money laundering. Cameroon should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

## Canada

Canada remains vulnerable to money laundering and terrorist financing because of its advanced financial services sector and heavy cross-border flow of currency and monetary instruments. The United States and Canada comprise the world's largest trade partnership and share a border that sees over $1 billion in trade a day. Both the U.S. and Canadian governments are particularly concerned

about the criminal abuse of cross-border movements of currency. Canada's financial institutions are vulnerable to currency transactions involving international narcotics trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States.

In 2000, the Government of Canada (GOC) passed the Proceeds of Crime (Money Laundering) Act to assist in the detection and deterrence of money laundering, facilitate the investigation and prosecution of money laundering, and create a financial intelligence unit (FIU). The Proceeds of Crime (Money Laundering) Act was amended in December 2001 to become the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). The list of predicate offenses was expanded to cover all indictable offenses, including terrorism and trafficking in persons. The PCMLTFA created a mandatory reporting system for suspicious financial transactions, large cash transactions, large international electronic funds transfers, and cross-border movements of currency and monetary instruments totaling Canadian $10,000 or greater. Failure to report cross-border movements of currency and monetary instruments could result in seizure of funds or penalties ranging from Canadian $250 to $5,000. In addition, money service businesses, casinos, accountants, and real estate agents handling third-party transactions are required to report suspicious financial transactions. Reporting requirements for the legal profession are still being clarified. Failure to file a suspicious transaction report (STR) could lead to up to five years imprisonment, a fine of $2,000,000, or both. As of June 12, 2002, suspicious reporting also includes financial transactions that are suspected to involve the commission of a terrorist financing offense.

The FIU, the Financial Transactions and Reports Analysis Center of Canada (FINTRAC), was established in July 2001 and has more than 160 employees. FINTRAC operates as an independent agency that receives and analyzes reports from financial institutions and other financial intermediaries and makes disclosures to law enforcement and intelligence agencies. FINTRAC is also mandated to ensure the compliance of these reporting entities with the legislation and regulations. The PCMLTFA expanded FINTRAC's mandate to include antiterrorist financing and to allow disclosure to the Canadian Security Intelligence Service of information related to financial transactions relevant to threats to the security of Canada. The Act also enables Canadian authorities to deter, disable, identify, prosecute, convict, and punish terrorist groups. No prosecutions occurred in 2002 or 2003.

A second set of regulations related to internal compliance regimes, the reporting of large cash transactions and large international electronic funds transfers, the reporting of transactions where there are reasonable grounds to suspect terrorist financing, the reporting of possession or control of terrorist property, and record keeping and client identification requirements was published in May 2002. Certain requirements were phased in during 2003. A further set of regulations concerning the reporting of cross-border movements of currency and monetary instruments became effective in January 2003. FINTRAC now receives mandatory reports on all international electronic funds transfers, cash transactions, or cross border movements of Canadian $10,000 or more. During 2002-2003, its first year of full operation, FINTRAC received more than two million reports, almost all of them filed electronically, with suspicious transactions totaling $350 million reported. The law protects those filing reports on suspicious transactions from civil and criminal prosecution and there has been no apparent decline in deposits made with Canadian financial institutions as a result of Canada's new laws and regulations.

In June 2002, FINTRAC became a member of the Egmont Group. FINTRAC has the authority to negotiate information exchange agreements with foreign counterparts, and has signed memorandums of understanding to establish the terms and conditions to share intelligence with the FIUs in Australia, Belgium, Italy, Mexico, the United Kingdom, and the United States. Canada has provisions for asset sharing and exercises them regularly. Canada is a member of the Financial Action Task Force, and the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD). Canada also participates with the Caribbean Financial Action Task Force (CFATF) as a Cooperating and Supporting Nation, and as an observer jurisdiction to the Asia/Pacific Group on

Money Laundering (APG). Canada is a party to the OAS Inter-American Convention on Mutual Assistance in Criminal Matters.

Canada has longstanding agreements with the United States on law enforcement cooperation, including treaties on extradition and mutual legal assistance. Canada is a party to the 1988 UN Drug Convention, and in May 2002, ratified the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. Canada is a party to the UN International Convention for the Suppression of the Financing of Terrorism, and has signed all of the other 11 UN terrorism conventions and protocols. It has also searched financial records for groups and individuals on the UN 1267 Sanctions Committee's consolidated list. Canada has listed and frozen the assets of more than 420 entities.

The GOC continues to take significant steps to reduce its vulnerability to money laundering and terrorist financing. FINTRAC should continue to negotiate information exchange agreements with its foreign counterparts. The GOC should continue its efforts to ensure that privacy protection does not inhibit the timely sharing of financial information that may be critical to international terrorist financing or major money laundering investigations.

## Cayman Islands

The Cayman Islands, a United Kingdom (UK) Caribbean overseas territory, has made significant strides in its anti-money laundering program, though it is still vulnerable to money laundering due to its significant offshore sector. With a population of approximately 40,000, the Cayman Islands is home to a well-developed offshore financial center that provides a wide range of services such as private banking, brokerage services, mutual funds, and various types of trusts, as well as company formation and company management. The Cayman Islands has approximately 580 banks and trust companies, 3,178 mutual funds, and 517 captive insurance companies that are licensed in the Cayman Islands. In addition, there are approximately 30,000 offshore companies registered in the Cayman Islands, including many formed by the Enron Corporation.

In June 2000, the Financial Action Task Force (FATF) placed the Caymans on the list of noncooperative countries and territories (NCCT) in the fight against money laundering. In July 2000, the U.S. Treasury Department issued an advisory to U.S. financial institutions warning them to pay special attention and to give enhanced scrutiny to certain transactions or banking relationships involving the Cayman Islands. Subsequently, the Cayman Islands passed and amended various laws, including the Money Services Law (2000), Building Societies Law (2001 Revision), Cooperative Societies Law (2001 Revision), Insurance Law (2001 Revision), and the Mutual Funds Law (2001 Revision). The FATF recognized in June 2001 that the Cayman Islands had remedied the serious deficiencies in its anti-money laundering regime, and removed the Cayman Islands from the NCCT list. The U.S. Treasury Department also withdrew its advisory against the Cayman Islands in June 2001.

Money laundering regulations that entered into force in September 2000 specify record keeping and customer identification requirements for financial institutions and certain financial services providers; the regulations specifically cover individuals who establish a new business relationship, engage in a one-time transaction over Cayman Islands (CI) $15,000 (approximately $18,000), or who may be engaging in money laundering. Amendments to the Proceeds of Criminal Conduct Law (PCCL) make failure to report a suspicious transaction a criminal offense that could result in fines or imprisonment. A provision of the Banks and Trust Companies Law (2001 Revisions) grants the Cayman Islands Monetary Authority (CIMA) the power to request "any information" from "any person" when there are "reasonable grounds to believe" that that person is carrying on a banking or trust business in contravention of the licensing provisions of the law, and grants CIMA access to audited account information from licensees who are incorporated under the Companies Law (2001 Second Revision).

The Monetary Authority Law (2001 Revision) (MAL 2001) was enacted in December 2002. The law grants CIMA independence with respect to the licensing and enforcement powers over financial institutions. Previously these were vested directly in the government. The MAL 2001 grants CIMA, consistent with its regulatory authority, the power to obtain information "as it may reasonably require" from a person covered by the PCCL and its money laundering regulations, a connected person, or a person reasonably believed to have information relevant to an inquiry by CIMA. The MAL 2001, unlike prior versions of the law, contain no requirement that CIMA obtain a court order before accessing account ownership and identification information. Amendments to the Companies Management Law (2001 Revision) expand regulatory supervision and licensing to management companies that were previously exempted, while the Companies Law (2001 Second Revision) institutes a custodial system in order to immobilize bearer shares.

A 2001 amendment to the PCCL revises the legal definition of "financial intelligence unit" to adopt the Egmont Group definition, thereby paving the way for the Cayman Islands Financial Reporting Unit to become a member of the Egmont Group in June 2001 and facilitating information exchange with its international counterparts. The Office of the Attorney General has also established an international division to respond to international requests for judicial cooperation.

The Cayman Islands has been cooperative with criminal law enforcement authorities in the United States. The Cayman Islands is subject to the U.S./UK Treaty concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters, and through the United Kingdom, is subject to the 1988 UN Drug Convention. Also, it is a member of the Caribbean Financial Action Task Force (CFATF) and the Offshore Group of Banking Supervisors. The Cayman Islands has made significant progress toward addressing the serious systemic problems that characterized its anti-money laundering regime less than two years ago. The government should continue with its anti-money laundering implementation plans and international cooperation. Additionally, the government should modify its domestic legislation to ensure that it criminalizes terrorist financing and implements the FATF Special Eight Recommendations on Terrorist Financing.

## Chad

Chad is not an important financial center. Chad has a large informal sector that could be used to launder the proceeds of crime. The Bank of Central African States (BEAC), which supervises Chad's banking system, is a regional Central Bank that serves six countries of the Central African Economic and Monetary Community (CEMAC). The Chadian Central Bank is under the direction of the BEAC. The BEAC itself has a formal convention with the French government, in which Central Bank funds are held in the French Treasury.

Money laundering is a criminal offense, and Chadian law holds individual bankers liable if their institutions launder money. Financial institutions are required to report suspicious transactions to the Chadian Central Bank. Banks must report monthly any domestic currency transactions over 500,000 CFA francs (about $990) to the Central Bank. In addition, all currency transfers above 100,000 CFA francs (about $194) from Chad to a non-CEMAC country or to Chad from a non-CEMAC country must be reported to both the Central Bank and the Ministry of Finance on a monthly basis. Banks are required to maintain records for two to 30 years, depending on the type of transaction. Banks must make customer information available to bank supervisors, the judiciary, the customs service, and tax authorities on request.

The Government of Chad (GOC) has the authority to freeze terrorist finance assets. In November 2001, the Ministry of Finance issued a directive to the Chadian Central Bank to freeze all accounts suspected of belonging to terrorist groups. The Central Bank has forwarded to Chadian banks the UN 1267/1390 consolidated list and the U.S. Government list of suspected terrorist individuals and organizations. As of the end of 2002, no suspect accounts had been identified.

On November 20, 2002, the BEAC Board of Directors approved draft anti-money laundering and counterterrorist financing regulations that would apply to banks, exchange houses, stock brokerages, casinos, insurance companies, and intermediaries such as lawyers and accountants in all six member countries. The BEAC submitted the draft regulations to the Ministerial Committee of the Central African Economic and Monetary Community (CEMAC) for approval in spring 2003. CEMAC's Ministerial Committee has approved the regulations, which are expected to be formally adopted into law by the Central African Action Group Against Money Laundering, a CEMAC entity, in spring 2004. These regulations would treat money laundering and terrorist financing as criminal offenses. The regulations would also require banks to record and report the identity of customers engaging in large transactions. The threshold for reporting large transactions would be set at a later date by the CEMAC Ministerial Committee at levels appropriate to each country's economic situation. Financial institutions would have to maintain records of large transactions for five years.

The regulations would require financial institutions to report suspicious transactions. Under the regulations, each country would establish a National Agency for Financial Investigation (NAFI) responsible for collecting suspicious transaction reports. Bankers and other individuals responsible for submitting suspicious transaction reports would be protected by law with respect to their cooperation with law enforcement entities. If a NAFI investigation were to confirm suspicions of terrorist financing, the Chadian government could freeze the related assets. The NAFI could cooperate with counterpart agencies in other countries.

Chad is a party to the 1988 UN Drug Convention.

Chad should criminalize terrorist financing and implement its money laundering laws. Chad should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. Chad should also work with the BEAC to strengthen the region's anti-money laundering and counterterrorist financing regime.

## Chile

Chile has a large, well-developed banking and financial sector. It is a stated goal of the government to turn Chile into a major regional center. Although Chile does not appear to have a significant money laundering problem, information is lacking as to the extent of money laundering activity in Chile. Money laundering appears to be primarily narcotics-related, but until recently, money laundering was only a crime when it involved the direct proceeds of drug offenses. Chile is not considered an offshore financial center and offshore banking-type operations are not permitted. Bank secrecy laws are strong in Chile, and the privacy rights enshrined in the constitution have been broadly interpreted and present challenges to Chilean efforts to combat money laundering.

The Government of Chile (GOC) made significant progress in 2003 with regard to establishing a more effective anti-money laundering and counterterrorist financing regime. On September 2, 2003, the Congress passed a new money laundering law, Law 19.913, that went into effect on December 18, 2003. The law was originally introduced in 1999 as part of a larger law to modify the 1995 Counter-Narcotics Law No. 19.366. In 2001, the money laundering provisions were split from the draft law to create a new bill, which was approved by the lower house of the Congress in 2002. In November 2003, Law 19.906 went into effect. Law 19.906 modifies Chile's existing terrorist legislation, Law 18.314, in order to more efficiently sanction terrorist financing in conformity with the UN International Convention for the Suppression of the Financing of Terrorism. Under Law 19.906, the financing of a terrorist act and the provision (directly or indirectly) of funds to a terrorist organization are punishable.

Prior to the approval of Law 19.913, Chile's anti-money laundering program was based on Law 19.366, which criminalized only narcotics-related money laundering activities. The law required only

voluntary reporting of suspicious or unusual financial transactions by banks. This law offered no "safe harbor" provisions protecting banks from civil liability, and as a result the reporting of such transactions was extremely low. Law 19.366 gave only the Council for the Defense of the State (Consejo de Defensa del Estado, or CDE) authority to conduct narcotics-related money laundering investigations. The Department for the Control of Illicit Drugs (Departmento de Control de Trafico Ilicito de Estupefacientes) within the CDE carries out this investigative function. It presently functions as Chile's financial intelligence unit (FIU), and is a member of the Egmont Group.

Under Law 19.913, money laundering is established as an autonomous crime, and predicate offenses are expanded to include (in addition to narcotics trafficking) terrorism in any form (including the financing of terrorist acts or groups), illegal arms-trafficking, fraud, corruption, child prostitution and pornography, and adult prostitution. The law also creates a financial analysis unit, the Unidad de Análisis Financiero (UAF), within the Ministry of Finance, which would ultimately replace the FIU currently functioning with limited legal authority within the CDE. Law 19.913 requires mandatory reporting of suspicious transactions by banks, currency exchange houses, issuers and operators of credit cards, chambers of commerce, securities brokers, insurance companies, mutual funds administrators, remitters and transporters of funds and other valuables, casinos and horse racetracks, notaries, the Foreign Investments Committee, and the Central Bank. Guidelines for what will constitute a suspicious transaction will be elaborated by the UAF, and reporting requirements will become obligatory in May 2004.

The law also requires that obligated entities maintain registries of cash transactions that exceed 450 unidades de fomento (approximately $10,000) and imposes record keeping requirements (five years). The movement of funds exceeding 450 unidades de fomento into or out of Chile must be reported to the customs agency, which then files a report with the UAF. The UAF will receive and analyze the reports of suspicious financial activities, and may request cash transactions reports from the registries, and then forward those reports deemed appropriate for further investigation to the Public Ministry. Under the new law, the Public Ministry has the ability to request that a judge issue an order to freeze assets under investigation and can also, with the authorization of a judge, lift bank secrecy provisions to gain account information if the account is directly related to an ongoing case.

Shortly after the passage of Law 19.913 in September 2003, Chile's anti-money laundering regime suffered a serious setback. Portions of the new law—specifically those that dealt with the UAF's ability to gather information, impose sanctions and lift bank secrecy provisions—were deemed unconstitutional by Chile's constitutional tribunal. The tribunal argues that some of the powers granted to the UAF in the new law violate privacy right guaranteed by the constitution. The tribunal's decisions eliminate the ability of the UAF to request background information from government databases or from obligated entities on the reports they submit, impose sanctions on entities for failure to file or maintain reports, or lift bank secrecy protections. The law went into effect in December 2003 without the above-mentioned powers. The Ministry of Finance is currently in the process of drafting a new bill to restore the UAF's ability to fine or sanction obligated entities for noncompliance with the reporting requirements. The constitutional tribunal objected to this section in the original version of Law 19.913 on due process grounds. The new bill, if passed, will address the due process issues and also create a stage for sanctions by the regulatory agencies prior to sanctions administered by the UAF It remains to be seen if the Ministry of Finance will introduce other bills to restore the UAF's abilities to lift bank secrecy provisions and request further information from government databases.

The GOC circulates the UN 1267 Sanctions Committee's consolidated list to banks and financial institutions. No terrorist assets belonging to individuals or groups named on the list have been identified to date in Chile. If assets were found, the legal process that would be followed to freeze and seize them is still unclear; Law 19.913 contains provisions that allow for prosecutors to request that assets be frozen based on a suspected connection to criminal activity. Government officials have stated that Chilean law is currently sufficient to effectively freeze and seize terrorist assets; however, the new

provisions for freezing assets are based on provisions in the drug law which at times have been interpreted narrowly by the courts. Until a case emerges, it will be difficult to judge how smoothly the new system will operate Chile's system for forfeiting assets is under review in the congress, with new legislation expected to pass in early 2004. The Ministry of National Property currently oversees forfeited assets, and proceeds from the sale of forfeited assets are passed directly to the national regional development fund to pay for drug abuse prevention and rehabilitation programs. The proposals under consideration would shift control of the funds to the Ministry of the Interior. Under the present law, forfeiture is possible for real estate, vehicles, ships, airplanes, other property, money securities and stocks, any instruments used or intended for use in the commission of the underlying crime, all proceeds of such criminal activity, and businesses involved in the criminal activity or purchased with illicit funds.

The most significant money laundering investigation of 2003 was the capture of the Guzman network of money launderers in December. That case represented the culmination of two years of investigations on the part of the CDE, the carabineros (customs officers) and the Santiago judiciary, with assistance from the Chilean tax authority and Panamanian prosecutors. The end result was five arrests and the seizure of $1.5 million in goods, including a hotel purchased with the proceeds of the network. Orlando Guzman Avila, a convicted narcotics trafficker, headed the ring from his prison cell, while members of his family and associates handled the daily operations.

Chile is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. In November 2001, the GOC became a party to the UN International Convention for the Suppression of the Financing of Terrorism. On December 11, 2003, the GOC signed the UN Convention Against Corruption. Chile is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. Chile is a member of the South American Financial Action Task Force on Money Laundering (GAFISUD) and has pledged to come into compliance with the organization's recommendations.

The GOC should recognize that the establishment of an effective financial intelligence unit that meets the Egmont Group's standards is imperative in the fight against money laundering and terrorist financing. It should support the efforts of the Ministry of Finance to have an operational FIU that meets international standards. If the abilities of the UAF to serve as a fully functioning FIU remain limited by the current version of the new law, the steps that have been taken in Chile over the past year to create a regime capable of investigating, punishing, and deterring financial crime may be severely limited if not negated. The GOC should take all necessary steps to ensure that its FIU becomes a viable entity that comports with international standards.

## China, People's Republic of

Money laundering remains a major concern as the People's Republic of China (PRC) restructures its economy. Most money laundering cases now under investigation involve funds obtained from corruption and bribery. Narcotics trafficking, smuggling, alien smuggling, counterfeiting, and fraud and other financial crimes remain major sources of laundered funds. Proceeds of tax evasion, recycled through offshore companies, return to the PRC disguised as foreign investment, and as such, receive tax benefits. Hong Kong-registered companies figure prominently in schemes to transfer corruption proceeds and in tax evasion recycling schemes.

After having studied how to strengthen the PRC's anti-money laundering regime over the past few years, the People's Bank of China (PBOC) and the State Administration of Foreign Exchange (SAFE) have promulgated a series of anti-money laundering regulatory measures for financial institutions. These include: Regulations on Real Name System for Individual Savings Accounts, Rules on Bank Account Management, Rules on Management of Foreign Exchange Accounts, Circular on

Management of Large Cash Payments, and Rules on Registration and Recording of Large Cash Payments.

New measures came into effect in 2003 that further strengthened China's anti-money laundering efforts. In March, a new PBOC regulation entitled "Regulations on Anti-money Laundering for Financial Institutions" took effect, strengthening the regulatory framework under which Chinese banks and financial institutions must treat potentially illicit financial activity. The regulation effectively requires Chinese financial institutions to take responsibility for suspicious transactions, instructing them to create their own anti-money laundering mechanisms. Banks are required to report suspicious or large foreign exchange transactions, of more than $10,000 per person in a single transaction or cumulatively per day in cash, or noncash foreign exchange transactions of $100,000 per individual or $500,000 per entity either in a single transaction or cumulatively per day. Banks are also required to report suspicious or large renminbi transactions and to refuse services to suspicious clients. Under the regulation, banks are further required to submit monthly reports to the PBOC outlining suspicious activity and to retain transaction records for five years. Banks which fail to report on time can be fined up to the equivalent of $3,600.

These measures complement the PRC's 1997 Criminal Code, which criminalizes money laundering under Article 191 for three predicate offenses—narcotics trafficking, organized crime, and smuggling. Additionally, Article 312 criminalizes complicity in concealing the proceeds of criminal activity, and Article 174 criminalizes the establishment of an unauthorized financial institution.

In 2003, the Chinese Government established a new banking regulator, the China Banking Regulatory Commission (CBRC), which assumed substantial authority over the regulation of the banking system. The CBRC has been authorized to supervise and regulate banks, assets management companies, trust and investment companies, and other deposit-taking institutions, with the aim of ensuring the soundness of the banking industry. One of its regulatory objectives is to combat financial crimes. Primary authority for anti-money laundering efforts remained with the PBOC, the country's Central Bank, along with the Ministry of Public Security in terms of enforcement.

For its part, the PBOC established two departments in June 2003 to monitor suspicious transactions and to facilitate coordination among the various Chinese Government agencies involved in the anti-money laundering fight. This reform built on moves made in 2002, when the PBOC set up an anti-money laundering team tasked with developing the legal and regulatory framework for countering money laundering in the banking sector. The team is chaired by the Vice Governor of the PBOC and composed of representatives of the PBOC's 15 functional departments. It also set up an office in the PBOC's Payment System and Technology Development Department to design a system for monitoring the movement of suspicious transactions through PBOC-licensed financial entities. In September 2002, SAFE adopted a new system to supervise foreign exchange accounts more efficiently. The new system will allow for immediate electronic supervision of transactions, collection of statistical data, and reporting and analysis of transactions. The PRC has decided to establish or designate a financial intelligence unit (FIU) to enhance its anti-money laundering regime.

In spite of these efforts, institutional obstacles and rivalries between financial and law-enforcement authorities continue to hamper Chinese anti-money laundering work and other financial law enforcement. Continuing efforts by some Chinese officials to strengthen the relatively weak legal framework under which money laundering offenses are currently prosecuted in the Chinese criminal code have yet to bear fruit. Also, anti-money laundering efforts are hampered by the prevalence of counterfeit identity documents and cash transactions conducted by underground banks. Another structural impediment is the absence of a nationwide automated network to monitor banking transactions through the PBOC. Many inter-banking transactions from one region to another are conducted manually, which delays the PBOC's ability to prevent money laundering. As a result,

weaknesses in the Chinese banking and criminal regulatory structure continue to be exploited by both domestic and foreign criminal enterprises.

The PRC supports international efforts to counter the financing of terrorism. Terrorist financing is now a criminal offense in the PRC and the government has the authority to identify, freeze, and seize terrorist financial assets. Subsequent to the September 11, 2001 terrorist attacks in the United States, the PRC authorities began to actively participate in United States' and international efforts to identify, track, and intercept terrorist finances, specifically through implementation of United Nations Security Council antiterrorist financing resolutions.

China's concerns with terrorist financing are generally regional, focused mainly on the western province of Xinjiang, which has a large number of Muslims. Chinese law enforcement authorities have noted that China's cash-based economy, combined with its robust cross-border trade, has led to many difficult-to-track large cash transactions. There is concern that groups may be exploiting such cash transactions in an attempt to bypass China's financial enforcement agencies. While China is proficient in tracing formal foreign currency transactions, the large size of the informal economy makes monitoring of China's cash-based economy very difficult. There were examples in 2003 of Chinese law enforcement's ability to link transactions within the state-run banking sector to suspected terrorist entities, but there has been no such example with regard to cash transactions. Senior representatives of the U.S. Government visited China in February 2003 in an effort to improve bilateral ties between the U.S. and China on the issue of terrorist financing

The PRC signed the UN International Convention for the Suppression of the Financing of Terrorism on November 13, 2001, but had not ratified it as of December 2003. The United States, PRC, Afghanistan, and Kyrgyzstan jointly referred the Eastern Turkistan Islamic Movement, an al-Qaida linked terrorist organization that carries out activities in the PRC and Central Asia, to the UN 1267 Sanctions Committee for inclusion on its consolidated list. In December 2003, China unilaterally decided to list on its own several individuals and East Turkistan groups as terrorists, and requested that domestic and foreign financial entities freeze their financial assets.

The PRC has signed mutual legal assistance treaties with 24 countries. The United States and the PRC signed a mutual legal assistance agreement (MLAA) in June 2000, the first major bilateral law enforcement agreement between the countries. The MLAA entered into force in March 2001 and can provide a basis for exchanging records in connection with narcotics and other criminal investigations and proceedings. The FBI-staffed legal attaché office opened at the U.S. Embassy in Beijing in October 2002. The PRC is a party to the 1988 UN Drug Convention, and in 2003 ratified the UN Convention against Transnational Organized Crime.

The United States and the PRC cooperate and discuss money laundering and other enforcement issues under the auspices of the U.S.-PRC Joint Liaison Group's (JLG) subgroup on law enforcement cooperation. The JLG meetings are held periodically in either Washington, D.C., or Beijing. In addition, The United States and the PRC have established a Working Group on Counter-Terrorism that meets on a regular basis. The PRC has established similar working groups with other countries as well.

As of December 2003, China had not joined the Financial Action Task Force (FATF), due to continuing concerns Beijing had over Taiwanese membership in the Asia Pacific Group (APG). Membership in a regional group is a precondition for membership in FATF.

The PRC should continue to build upon the substantive actions taken in recent years to develop a viable anti-money laundering regime consonant with international standards. Important steps include expanding its list of predicate crimes to include all serious crimes, continuing to develop a regulatory and law enforcement environment designed to prevent and deter money laundering, and establishing an FIU capable of sharing information with foreign law enforcement and regulatory agencies. The

PRC should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

## Colombia

The Government of Colombia (GOC) is a regional leader in the fight against money laundering. It has enacted comprehensive anti-money laundering legislation and continues to take significant measures to refine and improve its ability to combat financial crimes and money laundering. Nevertheless, drug money laundering from Colombia's lucrative cocaine and heroin trade continues to penetrate its economy and affect its financial institutions. Additionally, procedural difficulties in Colombian legal proceedings and limited resources for anti-money laundering programs constrain the effectiveness of the GOC's efforts. Corruption, as well as the high demand for laundering funds related to criminal activity such as narcotics trafficking, commercial smuggling for tax and import duty evasion, kidnapping for profit, and arms trafficking and terrorism connected to violent paramilitary groups and guerrilla organizations, all combine to keep Colombia a major money laundering country.

Money launderers in Colombia employ a wide variety of techniques. Trade-based money laundering, such as the Black Market Peso Exchange (BMPE), through which money launderers furnish narcotics-generated dollars in the United States to commercial smugglers, travel agents, investors and others in exchange for Colombian pesos in Colombia, remains a prominent method for laundering narcotics proceeds. Colombia also appears to be a significant destination and transit location for bulk shipment of narcotics-related U.S. currency. Local currency exchangers convert narcotics

dollars to Colombian pesos and then ship the U.S. currency to Central America and elsewhere for deposit as legitimate exchange house funds which are then reconverted to pesos and repatriated by wire to Colombia. Other methods include the use of debit cards to draw on financial institutions outside of Colombia and the transfer of funds out of and then back into Colombia by wire through different exchange houses to create the appearance of a legal business or personal transaction. Colombian authorities have also noted increased body smuggling of U.S. and other foreign currencies and an increase in the number of shell companies operating in Colombia. Smart cards, Internet banking, and the dollarization of the economy of neighboring Ecuador represent some of the growing challenges to money laundering enforcement in Colombia.

Colombia has broadly criminalized money laundering. In 1995, Colombia established the "legalization and concealment" of criminal assets as a separate criminal offense and, in 1997, more generally criminalized the laundering of the proceeds of extortion, illicit enrichment, rebellion, and narcotics trafficking. Effective in 2001, Colombia's criminal code extends money laundering predicates to reach arms-trafficking, crimes against the financial system or public administration and criminal conspiracy. Penalties under the criminal code range from two to six years with possibilities for aggravating enhancements of up to three-quarters of the sentence. Persons who serve as nominees for the acquisition of the proceeds of drug trafficking are subject to a potential sentence of six to fifteen years, while illicit enrichment convictions carry a sentence of six to ten years. Failure to report money laundering offenses to authorities, among other offenses, is itself an offense punishable under the criminal code, with penalties increased in 2002 to imprisonment of two to five years.

Colombian law provides for both conviction-based and non-conviction-based in rem forfeiture, giving it some of the most expansive forfeiture legislation in Latin America. A general criminal forfeiture provision for intentional crimes has existed in Colombian penal law since the 1930s. Since then, Colombia has adopted more specific criminal forfeiture provisions in other statutes, most notably those contained Colombia's principal antinarcotics statute, Law 30 of 1986. In 1996, Colombia added non-conviction-based forfeiture with the enactment of Law 333 of 1996, which established "extinction of domain" procedures to extinguish property rights for assets tainted by criminal activity. Despite this expansive legislative regime, procedural and other difficulties led to only limited forfeiture successes

in the past, with substantial assets tied up in proceedings for years. However, in 2002 the Anti-Narcotics and Maritime Unit of the Prosecutor General's office used Law 333 to successfully forfeit $35 million of U.S. currency seized with the assistance of DEA in 2001.

In 2002, the GOC took additional forceful measures to remove practical obstacles to the effective use of forfeiture to combat crime. In September, the GOC issued a decree to suspend application of Law 333 and implement more streamlined procedures in forfeiture cases. These reforms were refined and formally adopted in December through the enactment of Law 793 of 2002. Among other things, Law 793 repeals Law 333 and establishes new procedures that eliminate interlocutory appeals, which prolonged and impeded forfeiture proceedings in the past, imposes strict time limits on proceedings, and places obligations on claimants to demonstrate their legitimate interest in property. In addition, Law 793 requires expedited consideration of forfeiture actions by judicial authorities, and establishes a fund for the administration of seized and forfeited assets.

Also in December 2002, the GOC strengthened its ability to administer seized and forfeited assets by enacting Law 785 of 2002. This new statute provides clear authority for the National Drug Directorate (DNE) to conduct interlocutory sales of seized assets and contract with entities for the management of assets. Notably, Law 785 also permits provisional use of seized assets prior to a final forfeiture order, including assets seized prior to the enactment of the new law. The Department of Administration of Property within the Prosecutor General's office has responsibility for the administration of approximately 1.5 million seized assets, while the DNE manages an additional 300,000 assets. The DNE, with assistance from the United States Marshals Service, is developing a modern asset management and electronic inventory system for seized assets.

Colombia formally adopted legislation in 1999 to establish a unified, central financial intelligence unit, the Unidad de Información y Análisis Financiero (UIAF), within the Ministry of Finance and Public Credit with broad authority to access and analyze financial information from public and private entities in Colombia. Obligated entities—including financial institutions, institutions regulated by the Superintendence of Securities and the Superintendence of Notaries, export and import intermediaries, credit unions, wire remitters, exchange houses and public agencies—are required to file suspicious transaction reports with the UIAF, and are barred from informing their clients of their reports. Currency transactions and cross-border movements of currency in excess of $10,000 must also be reported, and exchange houses must file currency reports for transactions involving $700 or more. Unfortunately, there is no penalty for noncompliance, and financial institutions are believed to underreport transactions. The UIAF is widely viewed as a hemispheric leader in efforts to combat money laundering and supplies considerable expertise in organizational design and operations to other financial intelligence units in Central and South America. The UIAF is a member of the Egmont Group.

In addition, the Superintendence of Banks has instituted "know your customer" regulations for the entities it regulates, including banks, insurance companies, trust companies, insurance agents and brokers, and leasing companies. Among other things, the Superintendence of Banks also has authority to rescind licenses for wire remitters.

Bilateral cooperation between the GOC and the USG remains strong and active. In 1998, DEA established a Sensitive Investigative Unit (SIU) within the Colombian Administrative Security

Department (DAS) to investigate drug trafficking and money laundering organizations. In late 2003, the SIU arrested 21 money laundering facilitators in support of a U.S. operation based in South Florida. This operation exposed numerous flower export companies operating in Colombia as fronts for money laundering activities, and resulted in the seizure of over $17 million. Six defendants in this case await extradition to the United States.

The U.S. Customs Service (USCS) vetted financial investigative unit, formed within the Colombian National Police Intelligence and Investigations Unit (DIJIN) in 2002, has worked 68 cases, some of which have been closed by investigation and arrests. These cases are financial in nature and include money laundering, BMPE, and terrorist financing. Many of the cases involve provisional arrest warrants pursuant to extradition requests, several of which involve high profile defendants.

In 2003, the USCS conducted 92 cooperative investigations with Colombian authorities that resulted in 112 arrests and the seizure of $22 million in currency and property. A total of 11 individuals were extradited to the United States pursuant to these investigations. The USCS is also working closely with the Colombian Taxation and Customs Office (DIAN) to fully automate their customs computer systems. Cooperation with the DIAN in 2003 resulted in the arrests of 18 currency and financial instruments couriers and the seizure of $6 million. These cases typically involve the movement of funds from Mexico and Central America. Also in 2003, the GOC made 85 arrests (all Colombian nationals) and 15 complete plant suppressions (printing operations where all machinery, plates and negatives utilized to produce the seized bills were recovered and confiscated) based on the efforts of criminal investigators in trained money laundering investigation and undercover operations.

With support from DOJ attorneys from the Asset Forfeiture and Money Laundering Section and the Office of Overseas Prosecutorial Development Assistance and Training (OPDAT), Colombian asset forfeiture law was changed to resemble law in the United States. The amount of time for challenges was shortened and the focus was moved from the accused to the seized item (cash, jewelry, boat, etc.), placing more burden on the accused to prove the item was acquired with legitimately obtained resources. In 2003, OPDAT trained approximately 400 judges, magistrates, prosecutors, and judicial police in the new Asset Seizure Law, and trained 500 justice officials in basic financial and accounting principles and financial analysis. As a result of these efforts, there was a 25 percent increase in money laundering prosecutions and a 42 percent increase in asset forfeiture cases.

Colombia continued to play a role in multilateral efforts to combat money laundering in 2003. Colombia is a member of the South American Financial Action Task Force (GAFISUD), a regional anti-money laundering organization modeled after the G-8 Financial Action Task Force. In 2003, Colombia continued to participate in the mutual evaluation process by providing experts for the mutual legal evaluations of other GAFISUD countries. Colombia also participates in a multilateral initiative with the governments of the United States, Venezuela, Panama, and Aruba designed to address the problem of trade-based money laundering through the BMPE. Colombia became a signatory to the UN International Convention for the Suppression of the Financing of Terrorism in October of 2001 but has not yet become a party to the convention, nor has it criminalized the financing of terrorism. The GOC has signed but not ratified the UN Convention against Corruption and the UN Convention against Transnational Organized Crime.

Despite Colombia's comprehensive anti-money laundering laws and regulations, enforcement continues to be a challenge for Colombia. Limited resources for prosecutors and investigators have made financial investigations problematic. Continued difficulties in establishing the predicate offense further contribute to Colombia's limited success in achieving money laundering convictions and successful forfeitures of criminal property. Congestion in the court system, procedural impediments and corruption remain continuing problems.

Colombia should criminalize the financing of terrorism and become a party to the UN International Convention for the Suppression of the Financing of Terrorism. It should also take legislative action to strengthen forfeiture and other aspects of money laundering enforcement, eliminate procedural impediments and should consider devoting additional resources to prosecutors and investigators.