Country Reports

[*This text has been revised since its original posting; see version as released to Congress.]

Afghanistan

While Afghanistan is not a regional financial or banking center, its informal financial and credit system is extremely robust in scope and scale. Afghanistan is a major drug transit and drug producing country. Afghanistan recently passed anti-money laundering and terrorist financing legislation, and many efforts are being made to strengthen police and customs forces. However, there remain few resources and little expertise to combat financial crimes, or to produce meaningful financial intelligence. The most fundamental obstacles continue to be legal, cultural and historical factors that many times conflict with more Western-style proposed reforms to the financial sector generally.

In early 2004, the Central Bank of Afghanistan, Da Afghanistan Bank (DAB), worked in collaboration with the International Monetary Fund (IMF) and the United Nations Office on Drugs and Crime (UNODC) to establish the legislative framework for anti-money laundering and the suppression of the financing of terrorism. Although Afghanistan was unable to meet its initial commitment to enact both pieces of legislation by September 30, 2004, they were both finalized and signed into law by late October. In addition, the Government of Afghanistan (GOA) has now become a party to all relevant UN Conventions and protocols relating to the financing of terrorism and laundering of funds and other proceeds of crimes, which include the International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Illicit Traffic in Narcotics and Psychotropic Substances.

The Central Bank claims that both the Anti-Money Laundering (AML) and Proceeds of Crime and Combating the Financing of Terrorism laws incorporate provisions for complying with the international standards set forth by the Financial Action Task Force (FATF), meet or exceed international standards, and principally address the criminalization of money laundering and the financing of terrorism, customer due diligence, the establishment of a Financial Intelligence Unit (FIU), international cooperation, extradition, and the freezing and confiscation of funds. In fact, the AML law also includes provisions to address cross-border currency reporting, and establishes authorities to seize and confiscate monies found to be undeclared or falsely declared, or determined to be transferred for illicit purposes. However, the capability to enforce these provisions is nearly non-existent, and furthermore, these provisions are largely unknown in many parts of the country.

Under the new AML law, an FIU must be established and function as a semi-autonomous unit within DAB. Additionally, banks are required to report suspicious transactions and all cash transactions as prescribed by DAB to the FIU, which has the legal authority to freeze assets for up to 7 days. The FIU then directs cases to the Government Prosecutor's office within the Ministry of Justice, which will assign it to the appropriate court. The Department of Financial Supervision is coordinating the development of the FIU, which was originally planned for completion in January 2005. However, a number of key issues remain that must be considered before the FIU can be developed in an effective manner.

At present, there exist three recently re-licensed state-owned banks, four foreign banks, and three additional domestic banks. With the possible exception of the foreign banks, no banks are equipped with the knowledge or technical capacity to produce financial intelligence, and many are looking to both the Central Bank and the Ministry of Finance to provide training on the requirements set forth by the newly passed anti-money Laundering legislation, to include: customer due diligence/know your customer provisions (KYC), record keeping, currency transaction reporting (CTRs), suspicious transaction reporting (STRs), and the establishment of internal AML/CFT controls. There seems to be a lack of knowledge on the part of DAB as to the compliance capabilities of banks other than those

that are state-owned. The majority of their efforts have been devoted to re-licensing efforts, basic training and staffing.

The Ministry of Interior and the Government/Public Prosecutions Office are the primary enforcement authorities, although neither is able to conduct financial investigations, and both lack the training necessary to follow potential leads generated by an FIU, whether within Afghanistan or from international sources. Pursuant to the Central Bank law, there are plans for the development of a Financial Services Tribunal, which will be dedicated to prosecuting cases for a myriad of financial crimes, although there is a need for significant training for prosecutors and judges before this Tribunal can be effectively stood up. At present, all financial fraud cases are being forwarded to the Kabul High Court, where there has been little or no activity in the last two years. The process to prosecute and adjudicate cases is long and cumbersome, and significantly underdeveloped. A resident legal advisor to train prosecutors and judges has recently been placed in Kabul to help develop these mechanisms.

The majority of the money laundering in Afghanistan is linked to the trade of narcotics. Afghanistan accounts for a large majority of the world's opium production and in 2004 its internal production of opium increased. Opium gum itself is often used as a currency, especially for rural farmers, and it is used as a storehouse or bank of value in prime production areas. It is estimated that over 60 percent of Afghanistan's GDP is derived directly from narcotics activities, and proceeds generated from the drug trade have reportedly fueled a growing 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 by production labs, more of which are being established within Afghanistan's borders. The heroin is then often broken into small shipments and smuggled across porous borders for resale abroad. Payment for the narcotics outside the country is facilitated through a variety of means, including through conventional trade and the hawala system (money exchange dealers). The narcotics themselves are often used as tradable goods and as a means of exchange for foodstuffs, vegetable oils, electronics, and other goods between Afghanistan and neighboring Pakistan. Many of these 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.

The Supervision Department within the DAB is newly formed as of the end of 2003, and is broken into four divisions: Licensing, General Supervision (which includes on-site and off-site supervision), Special Supervision (which deals with special cases of enforcement and liquidation), and Regulation. The Department remains poorly staffed and struggles to find the appropriate talent. The Department is charged with administering the AML and CFT legislation, conducting audits, licensing new institutions, overseeing money exchange and money services businesses, and liaising with the commercial banking sector generally.

Afghanistan is dominated by the hawala system, which provides a range of financial and non-financial business services in local, regional, and international markets. Financial activities include money exchange transactions, funds transfers, micro and trade finance, as well as deposit-taking activities. While the hawala network may not provide financial intermediation services in the strict technical use of the term in the formal banking system, i.e., deposit-taking for lending purposes based on the assessment, underwriting, and pricing of risk(s), its robust and widespread use throughout Afghanistan should not be overlooked—given the extent of the service offering, extremely low cost, and greater efficiency than most formal systems world-wide.

In April 2004, Afghanistan issued new regulations for the licensing of money exchange dealers and hawaladars, and required them to submit quarterly transaction reports. Regulations differ for money exchange dealers vs. money services businesses, with more stringent requirements placed on the latter. New regulations also require Money Service Businesses to take appropriate measures to prevent money laundering and terrorist financing, including the submission of suspicious transaction reports to

the FIU. DAB branch managers have been trained on re-licensing, but to date, only one entity-Western Union-has received a license. The DAB is phasing in this process, and has little communication with the exchange dealers themselves, many of whom see the new regulations as overly strict, requiring burdensome capital requirements and fees for agents in each province. The DAB is struggling with administering the new requirements, and lacks the support of enforcement authorities from the Ministry Interior, among others.

There are a little over 300 known exchange dealers in Kabul, with 100-300 additional dealers in each province. These dealers are organized into unions in each province, and maintain a number of agent-principle and partner relationships with other dealers throughout the country and internationally. Contrary to some understanding, their record keeping and accounting activities are quite robust, extremely efficient, and take note of: currencies traded, international pricing, deposit balances, debits and credits with other dealers, lending, cash on hand, etc.

Border security continues to be a major issue throughout Afghanistan. At present there are 21 gateways that have come under federal control, utilizing international donor assistance as well as local and international forces. However much of the border areas continue to be un-policed and therefore susceptible to illicit cross-border trafficking and trade-based money laundering. Many regional warlords also continue to control the international borders in their provincial areas, causing major security risks. Customs authorities, with the help of outside assistance, have made significant strides, but much work remains to be done. Customs collection has also dramatically improved, but there continues to be significant leakage and corruption, as well as trade-based fraud, including false and under-invoicing. Thorough cargo inspections are currently not conducted at any gateway.

Under the Law on Combating the Financing of Terrorism, any nonprofit organization that wishes to collect, receive, grant, or transfer funds and property must be entered in the registry with the Ministry of Auqaf (Islamic Affairs). All non-profit organizations are subject to a due diligence process which includes an assessment of accounting, record keeping, and other activities. However, the capacity for the Ministry to conduct such examinations is near non-existent, and the reality is that any organization applying for registration is granted one. Furthermore, because no adequate enforcement authority exists, many organizations operating under a “tax-exempt” non-profit status in Afghanistan go completely unregistered, and nefarious activities are suspected of a number of organizations.

While the Government of Afghanistan has made significant strides in strengthening overall AML/CFT efforts, much work remains: empowering the informal hawala system through effective regulation; enabling bank and non-bank financial institutions to produce adequate financial intelligence; developing an FIU; bolstering financial investigative capabilities; and, training prosecutors and judges on money laundering and other financial crimes. These efforts must be conducted in tandem, while at the same time combating the overwhelming narcotics trade. A concerted effort on the part of donor states and Afghan authorities would empower rural farmers through effective alternative livelihoods programs, by dismantling the logistical and financial infrastructure that facilitates the opium economy generally.

Albania

As a transit country for trafficking in narcotics, arms, contraband, and humans, Albania remains at significant risk for money laundering. Major sources of criminal proceeds are drug-related crimes, robberies, customs offenses, exploitation of prostitution, trafficking in weapons and automobiles and theft through abuse of office. Tax crime and fraud appear relatively often, as well. 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. 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. Approximately 80 percent of all economic transactions are still carried out in cash, thereby making it difficult for the police to conduct money laundering investigations. Electronic and ATM transactions are relatively low, but are growing rapidly as more banks introduce this technology. According to the Bank of Albania, the Central Bank, 26 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. Until 2004, the Government of Albania (GOA) paid its own civil servants in cash, but a growing number of institutions are using electronic pay systems. All Central Government institutions are now required to convert to electronic pay systems by the end of 2005.

There are 16 banks, but only seven of them are considered to be major players in the system. In late 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 to lure people away from cash circulation.

Albania criminalized all forms of money laundering through Article 287 of the Albanian Criminal Code of 1995 and Law No. 8610 "On the Prevention of Money Laundering" passed in 2000. The laws set forth an "all crimes" definition for the offense of money laundering. However, an issue of concern is the fact that the Albanian court system requires a prior or simultaneous conviction for the predicate crime before an indictment for money laundering can be issued. Albanian law also has no specific laws pertaining to corporate criminal liability. Officials, however state that legal entities can be punished for money laundering under Article 45 of the Criminal Code as well as under Article 14 of Law No. 8610.

In June 2003, Parliament approved Law No. 9084, which strengthened 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 that of the European Union (EU) and bringing it into line with EU and international conventions. Under the revised Criminal Code many powers were expanded and improved upon. The definition of money laundering was revised, the establishment of anonymous accounts was outlawed, and the confiscation of accounts was permitted. Currently, no law criminalizes negligence by financial institutions in money laundering cases.

Law No. 8610 requires financial institutions to report all cross-border 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. Financial institutions have no legal obligation to identify customers prior to opening an account. Although, in practice, all banks have internal rules mandating customer identification, Law No. 8610 only requires customer identification prior to conducting transactions exceeding 2 million Albanian leke (approximately $20,000) or when there is a suspicion of money laundering. Law 9084 mandates identification of beneficial owners. The Bank of Albania has established a task force to confirm banks' compliance with customer verification rules.

Banking groups initially objected to implementation of some aspects of the law, especially with regard to what they see as onerous reporting requirements. Originally, financial institutions were required to complete a 61-question form for all transactions, including bank-to-bank transfers, exceeding $200,000. Subsequent modifications to the form, however, have somewhat reduced this reporting burden. In addition, financial institutions that submit reports are required to do so within 72 hours.

Banks, bureaux de change, casinos, tax and customs authorities, accountants, postal services, insurance companies, and travel agencies are obligated entities for threshold reporting.

Law No. 8610 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. In 2004, ACCML received 58 reports, seven of which were forwarded to the prosecutor's office for further action.

Law 9084 clarifies and improves the role of the ACCML and increases its responsibility. 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 ACCML and the General Prosecutor's Office, while creating an FIU oversight mechanism to ensure it fulfills, but does not exceed, its responsibilities and authority. Previously, coordination against money laundering and terrorist financing among agencies was sporadic.

There have been seven prosecutions 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 fourteen prosecutions, ten are pending in the courts and four have yet to be brought to trial. Given the high number of drug-trafficking and fraud-related cases in Albania, the number of money laundering prosecutions is still relatively low. This is largely due to the fact that the Albanian police force still does not have a central database, and investigators lack much-needed training in modern financial investigation techniques.

Through Law 9084, the Code of Criminal Procedure vastly improves the Albanian confiscation regime. Prior to 2004, Albanian law did not allow for asset forfeiture without a court decision. In 2004, Albania passed legislation that made the freezing and seizure of assets much easier. First, Albania passed a comprehensive antimafia law, Law No. 9284, which contains strong asset seizure and forfeiture provisions, subjecting to seizure the assets of suspected persons and their families and close associates. The law also places on the defendant the burden to prove a legitimate source of funding for seized assets. In the past three years the GOA has seized $3.34 million in liquid criminal and terrorist assets, and about $2.5 million in real estate ($1 million in 2004), although some estimates of value are much higher. These seizures were mostly related to actions against terrorist financiers. In 2004, approximately $2.5 million in cash related to both criminal and terrorist activities was seized.

Law 9084 criminalizes the financing of terrorism, mandating strong penalties for any actions or organizations linked with terrorism. Until 2004, the GOA used its anti-money laundering law to freeze the assets of individuals and organizations on the UN Security Council lists of designated terrorists or terrorist entities. In 2004, Law No. 9258, "On Measures Against Terrorist Financing," was enacted, permitting the GOA to administratively seize assets of any terrorist designated pursuant to Security Council resolutions, as well as pursuant to certain bilateral or multilateral requests. The Ministry of Finance has already implemented this law.

Although the GOA has not passed specific legislation addressing alternative remittance systems or charitable organizations, officials state that such informal transactions are covered under recent laws. 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 ACCML has the ability to enter into bilateral or multilateral information sharing agreements on its own authority and continues to cooperate with its counterparts, signing memoranda of understanding

(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. The GOA is also a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. In December 2003, Albania 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 ACCML became a member of the Egmont Group in July 2003.

The Government of Albania has taken important steps to enhance its anti-money laundering/counterterrorist financing regime, however, additional improvements can still be made. Albania should incorporate into its anti-money laundering legislation specific provisions regarding corporate criminal liability, customer identification procedures and the adequate oversight of money remitters and charities. Albania should also amend its laws to allow authorities to obtain an indictment for money laundering without a prior conviction of a predicate offense. A central police database should be created in order to assist law enforcement in the investigation of financial crimes. Training in advanced financial investigation techniques should be provided to police investigators.

Algeria

Algeria is not a regional financial center or an offshore financial center The extent of money laundering through formal financial institutions is thought 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 to 110 of the Finance Law of 2003 require financial institutions to report all suspicious activities to the CTRF. All financial institutions are obligated to comply with requests from the CTRF or face criminal penalties. The Executive Order 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.

In 2004, Algeria introduced a draft law titled “Law for the Prevention and the Fight Against Money Laundering and Terrorism Financing.” This legislation was approved by the administration’s Council of Ministers and was in the process of being reviewed by the National Assembly at the end 2004. The National Assembly and Senate enacted the legislation on January 5, 2005. The new law seeks to bring Algerian law into conformity with international standards and conventions. Reportedly, it covers the prevention and detection of money laundering and terrorism financing, institutional and judicial international cooperation, and penal provisions.

According to the new legislation, banks and financial institutions are required to know, record and report the identity of customers and the origin and destination of funds. These institutions must maintain confidential reports of suspicious transactions. Banks must maintain customer records for at least 5 years after the date of the last transaction. Significant authority is given to a banking commission operating under the authority of the Bank of Algeria (the central bank) to supervise banks and financial institutions and to inform the CTRF of suspicious or complex transactions.

Bank and professional secrecy rules do not apply to the bank commission, judicial authorities and the CTRF. Under the proposed legislation, the permitted 72-hour period for freezing assets on the basis of suspicious activity can be extended only with judicial authorization.

Money laundering controls in previous laws have applied to "intermediary," non-banking financial institutions. Once implemented, the new legislation will extend money laundering controls to apply to specific, non-banking financial professions, including lawyers, accountants, stockbroker and precious metal dealers.

The Ministry of Justice is expected to create a pool of judges who are expert in financial matters. Algeria plans to establish a coordinating committee involving the Ministry of Justice, the Ministry of Finance, and the local police to fight against financial crimes.

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 became a member of the nascent Middle East and North Africa Financial Action Task Force in November 2004.

Algeria should develop implementing regulations for the new money laundering law and create the appropriate commissions and committees necessary for its successful implementation.

Andorra

Andorra is a very small country with just six banks. However, 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.

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 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, so 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 establish 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. 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.

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. Also 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 and provides training in recognizing questionable transactions; as a result, banks have become more cooperative with UPB as well. The most recent figures available reflect that in 2003, UPB received 34 STRs.

In 2003, Andorra was able to obtain its 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 five 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. In July 2004, the Spanish and the Andorran police uncovered a drug trafficking network involving more than 20 people, the majority of them Spanish nationals. Drugs were seized in Spain and Andorra's UPB froze a 14 million Euro bank account held in Andorra. The case is still under investigation.

The police work closely with the FIU, and the law 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 assistance, 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 but not yet ratified the European Convention on Mutual Legal Assistance. Andorra 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.

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 in 2003. Despite its progress and cooperation concerning money laundering, the OECD continues to cite Andorra 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 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. The laundering of funds derived from high-level corruption is a concern, as is the poorly controlled trade in diamonds and the potential use of diamonds as a vehicle for money laundering. It is possible that links exist between the informal diamond trade and international criminal organizations. Angola is participating in the "Kimberley Process," an international certification scheme designed 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 currently has no comprehensive laws, regulations, or other procedures to detect money laundering and financial crime, although some such crimes are addressed through other provisions of the criminal code. For example, Angola's counternarcotics laws criminalize money laundering related to narcotics-trafficking. There is a draft law to reform the banking sector that contains provisions against money laundering that are consistent with international standards. The Government of Angola expects the law to pass in early 2005. The Central Bank of Angola has the authority to freeze assets, but Angola does not presently have an effective system for identifying, tracing, or seizing assets.

Angola is party 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. It has ratified the African Union Anti-Terrorist, Anti-Mercenary, and Money-Laundering Accord.

Angola should pass its pending legislation and criminalize money laundering (beyond drug offenses) and terrorist financing. It should establish a financial intelligence unit. It should then move to implement the legislation. It should become a party to both the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. It should enhance controls over the diamond trade and increase its efforts to combat official corruption.

Anguilla

Anguilla is a United Kingdom (UK) overseas territory with a population of approximately 12,871. 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 the ability to register companies online and the use of bearer shares make Anguilla vulnerable to money laundering.

Anguilla has four domestic banks, two of which also conduct offshore banking. The Eastern Caribbean Central Bank (ECCB) supervises the four domestic banks. The ECCB completed on-site anti-money laundering inspections during 2002 at three domestic banks. The fourth bank's on-site inspection is scheduled for early 2005. Two domestic banks have licenses to conduct offshore banking. The ECCB signed a memorandum of understanding with the Governor of Anguilla to regulate the offshore activities of these two domestic banks. Under the Trust Companies and Offshore Banking Act the Governor has the authority to revoke or suspend an offshore bank license for non-compliance.

As of 2003, the offshore sector also includes approximately 3,041 international business companies (IBCs), 128 limited liability companies, seven 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, 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. It was reported in 2003 that legislation was being drafted to immobilize bearer shares; however, no updated information on this draft legislation has been provided.

In November 2003, the Financial Services Commission Act was passed. The Act creates the Financial Services Commission (FSC) as an autonomous regulatory agency that assumed most of the Financial Services Department supervisory authority. The FSC became operational February 2, 2004. The board consists of a director, deputy director, junior regulator, and an office manager. The Act empowers the FSC 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 Act also empowers the FSC to "monitor compliance by regulated persons with the Anti-Money Laundering Regulations of 2000 and such other Acts, Regulations, Guidelines, or Codes relating to money laundering or the financing of terrorism as may be prescribed." Anguilla has approximately 20 registered insurance companies. Under the new Insurance Act enacted in 2004, the FSC supervises all insurance intermediaries.

A National Committee on Drugs and Money Laundering was formed to act as the catalyst for Anguilla's anti-money laundering/counterterrorist financing efforts. This Committee proposed Customs Declaration Forms to detect and monitor cross-border transportation of cash or bearer instruments in excess of U.S. $10,000. The proposal is currently before the Comptroller of Customs.

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, receives suspicious transaction reports (STRs) and is 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.

The Government of Anguilla is a developing financial services jurisdiction and 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. Particularly in light of its online registration capabilities, Anguilla must ensure that its oversight and supervision of its offshore center is adequate. Anguilla should also strengthen the MLRA's ability to receive and analyze STRs by providing sufficient resources and training to the unit. Anguilla should criminalize 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 to both 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.

The Money Laundering (Prevention) Act (MLPA) of 1996 is the operative legislation addressing money laundering. The MLPA is currently being amended to broaden the definition of supervised financial institutions to cover non-banking institutions.

In 2000, the Government of Antigua and Barbuda (GOAB) amended the International Business Corporations Act of 1982 (IBCA). This was done in order to remove 1998 amendments that had given the International Financial Sector Regulatory Authority (IFSRA) responsibility to both market and regulate the offshore sector, as well as permitting 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 2002, the IFSRA was replaced by a new entity, the Financial Services Regulatory Commission (FSRC). The Director of IFSRA was 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 14,500, with 5,000 active in 2004. 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 16 licensed offshore banks in operation. Of these, however, several may not meet international physical presence standards.

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.

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 ONDCP's relationship with the Royal Antigua and Barbuda Police Force, Customs, Immigration, and the Antigua and Barbuda Defense Force. Through November 2004, the ONDCP had received 29 suspicious activity reports, down from 47 in 2003.

A training program and information kit on anti-money laundering for magistrates and other judicial officers was developed, and training was conducted in 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 five domestic casinos, which are required to incorporate as domestic corporations. Internet gaming operations are required to incorporate as IBCs; official sources indicate there are 35 such entities. The GOAB receives approximately $2.8 million per year from license fees and other charges related to the Internet gaming industry. In 2001, the GOAB adopted 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 to 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 entities are sent to the ONDCP and FSRC. Reportedly, they are receiving approximately four per week. The FSRC and DOG have issued Internet Gaming Technical Standards and guidelines.

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 United States. The GOAB contends that the United States is in violation of the WTO General Agreement on Trade in Services, because the United States prohibits residents from engaging in Internet gaming and betting services, and prohibits credit card companies and banks from facilitating the transactions. In 2004, the WTO ruled in favor of the GOAB. The United States has appealed the decision to the WTO, and it is under review. The GOAB has stated that U.S. mutual legal assistance treaty (MLAT) requests for information on cases involving Internet gaming will not be honored, as Internet gaming is not illegal in A&B.

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 on money laundering charges. Approximately $3.4 million has been frozen in A&B in connection with the case.

In October 2001, Antigua enacted the Prevention of Terrorism Act, which empowers the ONDCP 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. The GOAB circulates lists of terrorists and terrorist entities to all financial institutions in A&B. 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. An extradition request related to a fraud and money laundering investigation remains pending under the treaty. 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 2004, 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 United States. Despite its own civil forfeiture laws, currently GOAB can only provide forfeiture assistance in criminal forfeiture cases. The GOAB has frozen approximately $6 million in A&B financial institutions as a result of U.S. requests and has 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 still pending in the United States and other countries. In 2004, the GOAB received $680,000 from asset sharing revenues with the United States.

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 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 Government of Antigua and Barbuda should continue its international cooperation, and rigorously implement and enforce all provisions of its anti-money laundering legislation. Antigua and Barbuda should take the necessary legislative and regulatory steps to ensure its gambling sector is properly covered by anti-money laundering legislation and is strictly supervised. Additionally, Antigua and Barbuda should vigorously enforce its anti-money laundering laws by actively prosecuting money laundering and asset forfeiture cases. Antigua and Barbuda should ensure that all offshore banks licensed there 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 four years may have reduced the opportunities for money laundering through the banking system. However, transactions conducted through non-bank

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 2004, the GOA continued 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. The UIF has forwarded 48 suspected cases of money laundering to prosecutors for review as of December 2004, some of which could result in prosecutions during 2005.

In 2004, the UIF extended the requirement to report suspicious or unusual transactions to include accountants and notary publics. Previous resolutions issued by the UIF in 2003 had extended this requirement to include 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; and postal money transmitters. The resolutions provide guidelines for identifying suspicious or unusual transactions, and require the reporting of those whose value exceeds 50,000 pesos (approximately $17,000). 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.

The Central Bank requires by resolution that all banks maintain a database of all transactions exceeding 10,000 Argentine pesos (approximately $3,400). This data is submitted on a periodic basis to the BCRA. Some banks make this information available to the UIF on request, others do not, citing financial secrecy laws. In 2004, the UIF began receiving all suspicious transaction reports directly from obligated entities. Previously, due to continued budget constraints, only suspicious transactions over 500,000 Argentine pesos (approximately $170,000) were reported directly to the UIF, while transactions below 500,000 Argentine pesos went 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 $3,400). 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. A law (Law 22.415/25.821) that would have provided for the immediate fine of 25 percent of the undeclared amount, and for the seizure and forfeiture of the remaining undeclared currency and/or monetary instruments, passed the Argentine Congress in 2003, but was vetoed by the President due to alleged conflicts with Argentina's commitments to MERCOSUR (Common Market of the Southern Cone). 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. Law 25.246 provides that proceeds of assets forfeited under this law can also be used to fund the UIF.

The Financial Action Task Force (FATF) conducted a mutual evaluation of Argentina in October 2003. The mutual evaluation report was accepted at the FATF plenary in June 2004 and at the plenary

meetings of the Financial Action Task Force for South America (GAFISUD) in July 2004. While the evaluation of Argentina showed the UIF to be functioning satisfactorily, some weaknesses in Argentina's current anti-money laundering and terrorist financing legislation were identified. Although Law 25.246 of 2000 expanded the number of predicate offenses for money laundering beyond narcotics-related offenses and created the UIF, there have been only two money laundering convictions in Argentina since money laundering was first criminalized in 1989. Under strict interpretation of the law, a prior conviction for the predicate offense is required in order to obtain a conviction for money laundering.

The strict interpretation of the secrecy provisions of Law 25.246 also inhibits the UIF's ability to request additional information from obligated entities. Although Law 25.246 provides that the UIF is able to request information from obligated entities if this information is deemed useful to the UIF in carrying out its functions, the same law applies strict "banking, fiscal, and professional" confidentiality provisions and requires court orders to request information not directly related to a suspicious transaction report. Several government authorities, such as AFIP (the tax authority, which is responsible for overseeing the customs agency and dealing with tax fraud and other economic crimes) and the Central Bank have been uncooperative in responding to the UIF's requests for assistance. From the time the UIF began receiving reports (November 2002) until the time when the evaluation was carried out (October 2003), the UIF had requested additional information from the AFIP in 153 cases (40 percent of which were with regard to suspicious transaction reports sent to the UIF from the AFIP itself) and from the Central Bank in 130 cases. The secrecy law has been lifted in only one case.

An amendment to Law 25.246 has been drafted that will prohibit obligated entities from invoking secrecy as a reason for refusing to comply with UIF requests; however, the draft law has not yet been passed. Another impediment to Argentina's anti-money laundering regime is that, under Argentine law, only transactions (or a series of related transactions) involving over 50,000 pesos can constitute money laundering. Transactions of less than this amount constitute concealment ("encubrimiento"), a lesser offense. GAFISUD has criticized the setting of the amount at 50,000 pesos when the international standard is $10,000.

Terrorism and terrorist acts are not specifically criminalized under Argentine law. Because these acts are not autonomous offenses, terrorist financing is not a predicate offense for money laundering. 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 new law will incorporate into the Argentine Penal Code a penalty of 10 to 20 years for taking part in, or cooperating with, or assisting in, the formation, maintenance, or financing of a terrorist group.

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. This legislation had not yet been passed at the end of 2004. However, the Central Bank of Argentina has issued Circular B-6986, instructing financial institutions to identify and freeze the funds and financial assets of the individuals and entities listed by the U.S. Government (USG) as possibly engaged in acts of terrorism. Although no assets have been frozen, the Central Bank continues to monitor the financial institutions.

The GOA remains active in multilateral counternarcotics and international anti-money laundering organizations. It is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, the FATF, and GAFISUD. In 2004, the GOA held the presidency of GAFISUD; GAFISUD's Secretariat is based in

Buenos Aires. The GOA is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the following conventions: the UN International Convention for the Suppression of the Financing of Terrorism, the OAS Inter-American Convention on Terrorism, the UN Convention against Transnational Organized Crime, and the UN Convention Against Corruption. Argentina is a member of the Egmont Group and participates in the "3 Plus 1" Counter-Terrorism Dialogue between the United States and the Tri-border Area countries (Argentina, Brazil and Paraguay). The GOA and the USG have a Mutual Legal Assistance Treaty that entered into force in 1993, and an extradition treaty that entered into force in 2000.

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. However, several legislative and regulatory changes would significantly improve the anti-money laundering/counterterrorism finance regime in Argentina. Argentina should pass domestic legislation that criminalizes the financing of terrorism, as well as ratifying both the OAS Convention on Terrorism and the UN International Convention for the Suppression of the Financing of Terrorism. To comply with the latest FATF recommendation on the regulation of bulk money transactions, Argentina also will need to review the legislation vetoed in 2003 to find a way to regulate such transactions consistent with its MERCOSUR obligations.

Disputes over information sharing between the Unidad de Inteligencia Financieria, the Central Bank, and the tax agency, the Agencia Federal de Ingresos Publicos, also need to be resolved for anti-money laundering efforts to succeed. In doing so, the Government of Argentina will need to balance the concerns of the Unidad de Inteligencia Financiera and judicial authorities for quick and efficient access to such information in aid of legitimate investigations of suspected money laundering, and the need to stringently protect that information from disclosure or use for other purposes, which remains a major concern of the financial sector. 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 Unidad de Inteligencia Financiera to carry out its mission.

Armenia

Armenia is not a major financial center. Armenia has no offshore banks and few non-banking financial institutions. Nevertheless, 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, 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. The large number of diaspora Armenians and those temporarily working abroad helps explain the large volume of money transfers and remittances into Armenia, mostly sent through the banking system. There are also about 30 casinos on the outskirts of Yerevan that will be subject to the new anti-money laundering regime that the Government plans to implement in 2005.

The Government of Armenia (GOA) has made great progress in 2004 in bringing legislation and structural capacity up to international standards in the area of money laundering and terrorist finance. On December 14, 2004, the National Assembly adopted a comprehensive anti-money laundering law, "The Law on Fighting Legalization of Illegally Received Income and Terrorist Financing." This legislation consolidates old laws into a single piece of legislation, adds new regulatory structures, and specifically criminalizes money laundering and the financing of terrorism. The law was submitted to President Kocharian on December 22, 2004, and will take effect approximately two months after

signature. The new law is part of an anti-money laundering and counterterrorism financing package with which the GOA seeks to meet the recommendations of the Council of Europe (MONEYVAL), UNSCR 1373 requirements and the FATF Forty Recommendations. In addition to the new law, the comprehensive package includes amendments to 12 existing laws and the Criminal Code, affecting banking, credit and non-profit organizations, insurance, and gaming.

The new law designates the Central Bank of Armenia (CBA) as the single authorized body to coordinate anti-money laundering and counterterrorist financing activities in the country. The CBA is working to develop a series of implementing regulations (aiming to have them take effect by June 2005) and plans to set up a financial intelligence unit (FIU) by March 2005. The implementing regulations include the charter regulating CBA activities and defining CBA's, the FIU's and other reporting entities' mandates and the relationships among them. The law creates a single FIU, housed within the CBA, with authority to collect and analyze data from banks, non-banking financial institutions, and non-profit organizations, as well as gambling enterprises. The law requires financial institutions to report any non-real estate transaction of more than 20 million Armenian dram ($40,000), real estate transactions of more than 50 million dram ($100,000) and any single money transfer of more than five million dram ($10,000). The law also requires state registration authorities to report any business purchase exceeding 30 million dram ($60,000) in a sole proprietorship and 40 million dram ($80,000) for other types of companies. Failure to comply with any CBA requirement will subject the commercial bank to civil liability. The law also will give financial institutions immunity from civil liability for cooperating with investigations.

Not all institutions covered by the law will have to report directly to the FIU. Casinos and insurance companies will still report directly to their regulator in the Ministry of Finance, which will pass on any suspicious information to the FIU. It is unclear in the proposed law what authority the FIU will have to inspect these institutions directly. Individuals must declare cash in excess of $10,000 they transport into or out of the country to the Customs service, which will then transmit these records to the FIU. The FIU envisaged by the proposed law will not be a law enforcement agency. The law provides for the FIU to transfer active cases to the Procurator General's office for prosecution. According to the CBA, there are currently five open investigations based on suspicious financial transactions.

The GOA has sought American cooperation concerning information about specific transfers between Armenian and American banks in one of its money laundering investigations.

Financing of terrorism has been criminalized. The CBA has circulated to all banks lists of those named on the UNSCR 1267 sanctions list as associated with terrorist organizations and has instructed the banks to freeze their accounts. There have been no matches as of December 2004.

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, the UN Convention on Mutual Assistance in Criminal Matters, the UN Convention against Transnational Organized Crime, and the European Convention on Mutual Assistance in Criminal Matters. During 2004, Armenia became party to the UN International Convention for the Suppression of the Financing of Terrorism and the Council of Europe Convention on Laundering Search, Seizure, and Confiscation of the Proceeds From Crime.

Armenia should continue to strive to create a comprehensive anti-money laundering/counterterrorist financing regime. The Government of Armenia should fully enact and implement its new law and ensure its new financial intelligence unit (FIU) will have the authority and powers necessary to meet its responsibilities.

Aruba

Aruba is an autonomous, largely self-governing Caribbean island within the Kingdom of the Netherlands. As a transit country for narcotics-trafficking, Aruba is both attractive and vulnerable to money launderers.

Aruba has a relatively small international financial services sector. As of November 30, 2004, there were 5,526 limited liability companies, of which 493 were offshore limited liability companies or Aruba Offshore Companies. In addition, there are about 4,014 offshore tax-exempt companies referred to as Aruba Exempt Companies, which mainly serve as vehicles for tax minimization, corporate revenue routing, asset protection, asset management, and finance and are almost completely exempt from disclosure of financial condition and beneficial owners. Both types of companies can issue bearer shares.

There are also 11 casinos, 12 credit institutions, four commercial and two offshore banks, two mortgage banks, an investment bank and a finance company. The island also has two credit unions, six registered money transmitters, two exempted U.S. money transmitters (Money Gram and Western Union), eight insurance companies, 14 general insurance companies, two captive insurance companies, and 11 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. In 2002, the Government of Aruba (GOA) initiated a new fiscal framework that contains a dividend tax and imputation credits.

There are two methods widely used for international tax planning in Aruba, the Naamloze Vennootschap (NV) or limited liability company, a low-tax entity with a 35 percent profit tax, and the Aruba Exempt Company (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 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. Due to the commitment Aruba made to the OECD, the incorporation of low tax offshore limited liability companies was halted in July 2003. The existing offshore limited liability companies are grandfathered until 2007/2008. In furtherance of this commitment, AECs are to be abolished or modified by the end of 2005.

Following the July 4, 2000, parliamentary approval of the State Ordinance Free Zones Aruba, in July 2001 the Parliament unanimously approved the designation of the Free Zone Aruba NV 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 at the CFATF Ministerial Council in October 2001. Free Zone Aruba NV is continuing the process of implementing and auditing the standards that have been developed.

The anti-money laundering legislation in Aruba extends to all crimes, including tax offenses, in which the underlying offense must have a potential penalty of more than four years imprisonment. In most cases, money laundering is incorporated into the investigation as the underlying offense. All financial and non-financial institutions are obligated to report unusual transactions to Aruba's financial

intelligence unit, the Meldpunt Ongebruikelijke Transacties (MOT). On July 1, 2001, a State Ordinance was issued that extends reporting and identification requirements to casinos and insurance companies, and also authorizes onsite inspections. The MOT is required to inspect all casinos, banks, money remitters, and insurance companies. In 2002, authorized staffing for MOT was increased from six to 12. During 2004, all the vacancies at the MOT were filled. The MOT shares information with other national government departments. On April 2, 2003, MOT signed an information exchange agreement with the Aruba Tax Office, which is in effect and being implemented. MOT is not linked electronically to the police or prosecutor's office.

The State Ordinance on the Supervision of Insurance Business (SOSIB) and the Implementation Ordinance on SOSIB bring insurance companies under the supervision of Centrale Bank van Aruba, the Central Bank, and require those established after July 1, 2001, to obtain a license from the Central Bank. Effective February 19, 2002, life insurance companies and insurance intermediaries are required to report suspicious transactions. The State Ordinance on the Supervision of Money-Transfer Companies became effective August 12, 2003, and places money transfer companies under the supervision of the Central Bank. Quarterly reporting requirements became effective in 2004. A State Ordinance on the supervision of trust companies, which will designate the Central Bank as the supervisory authority, is being drafted.

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.

During 2003, 10 persons were accused of money laundering. Initially eight were convicted under the State Ordinance penalizing money laundering, but the convictions were overturned on appeal. The other two were not prosecuted for money laundering under this ordinance.

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. The GOA is in the process of implementing the recommendations.

Through the Netherlands, Aruba participates in the 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. The local FATF committee reviewed the GOA anti-money laundering legislation and proposed, in accordance with the FATF Special Recommendations on Terrorist Financing, amendments to existing legislation, and introduction of new laws. In 2004, the Penal Code of Aruba was modified to criminalize terrorism, the financing of terrorism, and related criminal acts. Aruba is in compliance with seven of the Special Recommendations. Aruba will introduce the Sanctions Ordinance to become fully compliant with the Special Recommendations. As part of its commitment to combat the financing of terrorism, the GOA formed a separate 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 Tax Information Exchange Agreement with the United States, which was signed in November 2003, became effective in September 2004. The MOT is a member of the Egmont Group, and is authorized by law to share information with members of the Egmont Group through a memorandum of understanding.

The Government of Aruba 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. Aruba should immobilize bearer shares under its fiscal framework and should enact its long-pending ordinance addressing the supervision of trust companies.

Australia

Australia is one of the key centers for capital markets 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 2004. The market capitalization of domestic equities listed on the Australian Stock Exchange as of October 2004 was $700 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 three years have seen a noticeable increase in activities investigated by Australian law enforcement agencies that relate directly to offenses committed overseas.

Australia criminalized money laundering related to serious crimes with the enactment of the Proceeds of Crime Act 1987. This legislation also contained provisions to assist investigations and prosecution in the form of production orders, search warrants, and monitoring orders. It has now been replaced by two acts that came into force on January 1, 2003 (although proceedings that began prior to that date under the 1987 law will continue under that law). The Proceeds of Crime Act 2002 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 is intended to implement 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 second law, the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002, 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 activity 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 that 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 non-banking 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 Act 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), and international funds transfers equivalent to or exceeding Australian $10,000. The FTR Act also obliges any person causing an international movement of currency of Australian $10,000 (or a foreign currency equivalent) or more, into or out of Australia, either in person, as a passenger, by post or courier to make a report of that transfer.

FTR Act reporting also applies to non-bank 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. Solicitors (lawyers) also are required to report significant cash transactions. Accountants do not have any FTR Act obligations. However, they do have an obligation under a self-regulatory industry standard not to be involved in money laundering transactions. The FTR Act also provides the GOA broad powers to seize, declare forfeit, or otherwise deny to persons the benefit of unlawful activity. It further creates a national Confiscated Assets Account from which the GOA may transfer assets to other governments.

The Australian Transaction and Reports Analysis Centre (AUSTRAC), Australia's Financial Intelligence Unit (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. In June 2004, the Australian Taxation Office reported that more than AU $75 million in assessments and penalties were directly attributed to the use of AUSTRAC intelligence, and that there were more than 1,700 investigations collectively reported by law enforcement agencies that involved the use of AUSTRAC's intelligence. For the year ending June 2004, AUSTRAC received 11,484 suspicious transaction reports, an increase of 42.5 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 is intended to implement the UN International Convention for the Suppression of the Financing of Terrorism. The GOA froze three accounts related to an entity listed on the UNSCR 1267 Sanction Committee's consolidated list, the International Sikh Youth Federation, in September 2002. There have been no prosecutions or arrests under this legislation. The Security Legislation Amendment (Terrorism) Act 2002 created new criminal offenses for receiving funds from, or making funds available to, a terrorist organization. There are several investigations currently under way and the GOA is pursuing one prosecution related to the receipt of funds from a terrorist organization.

The SFTA amendments to the FTR Act were a significant milestone in the enhancement of AUSTRAC's international efforts. These amendments gave the Director of AUSTRAC the right to establish agreements with international counterparts to directly exchange intelligence, spontaneously and upon request. A review of the FTR Act is currently being undertaken to improve procedures, implement international best practices, and address further aspects of terrorist financing, including alternative remittance systems.

AUSTRAC has expanded its involvement in the fight against financial crimes by signing agreements for using AUSTRAC's financial transaction data with Centrelink (an Australian public assistance agency) and the Child Support Agency. The GOA believes that the welfare policies will greatly benefit from the availability of AUSTRAC data, and it is anticipated that early results will help reduce welfare fraud and related criminal conduct. The information available to Centrelink officers will relate specifically to significant cash transaction reports, international currency transfer reports, suspect transaction reports, and international funds transfer instructions.

The Internet-based Anti-Money Laundering Electronic Learning Application (AML E-Learning), launched in 2004, has assisted AUSTRAC's ongoing industry education program. The goal of this program is to assist those in the private sector, government agencies, and the public, domestically and internationally, to understand the broader issues within Australia's anti-money laundering environment. The AML E-learning application provides education on a variety of issues including the process of money laundering, terrorist financing, and the role of AUSTRAC. This comprehensive application is currently being market-tested with industry and the formal launch of the application will occur early in the new financial year.

AUSTRAC's work in a range of committees and working groups in the international Egmont Group of financial intelligence units and with the Asia/Pacific Group on Money Laundering has become a larger part of its international activities this year. 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 on a long-term technical assistance program to help 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. AUSTRAC is exploring similar assistance to other regional FIUs, with $7.8 million in funding over the next four years under the Southeast Asia Counter-Terrorism Technical Assistance and Training Package AUSTRAC has provided training and other technical assistance to developing FIUs in its region..

In 2004, AUSTRAC received more than 10.7 million reports from cash dealers, solicitors, and members of the general public through its electronic data delivery system (EDDSWeb system). 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 increase both the volume of FTR intelligence available to partner agencies and the speed with which those agencies can access that intelligence. AUSTRAC believes the increase reflects its ongoing public awareness of suspicious transaction reporting requirements and procedures.

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 and terrorist financing 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 35 countries. Memoranda of understanding (MOUs) have been signed with Argentina, the Bahamas, Belgium, Canada, Colombia, Cook Islands, Croatia, Cyprus, Denmark, France, Estonia, Guernsey, Indonesia, Ireland, Isle of Man, Israel, Italy, Korea, Lebanon, Malaysia, Mauritius, the Netherlands, New Zealand, Poland, Portugal, Singapore, Slovakia, Slovenia, Spain, South Africa, Thailand, the United Kingdom, the United States, Vanuatu, and Venezuela. In September 1999, a Mutual Legal Assistance Treaty between Australia and the United States entered into force.

AUSTRAC's director is a Co-Vice Chair of the Egmont Committee, a sub-group of the heads of FIUs, and was re-elected this year to that role and to the role as head of the Oceania regional group, which currently comprises the five Oceania region members of the Egmont Group-Australia, Cook Islands, Marshall Islands, New Zealand, and Vanuatu.

Australia is a party to the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, the 1988 UN Drug Convention, the UN Convention for the

Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime and its protocol on migrant smuggling.

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, Australia's Minister of Justice announced that the government would proceed with a fundamental legislative overhaul to implement fully the FATF's revised Forty Recommendations and address further aspects of terrorist financing, including alternative remittance systems. The new standards will oblige Australia to expand customer due diligence to requirements for financial institutions and will extend anti-money laundering obligations to non-financial 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 officials expect the government to propose legislative revisions to implement the FATF Forty Recommendations in 2005.

The Government of Australia should implement financial transaction reporting by accountants and reporting of suspect transaction reports by solicitors. Australia should also implement a registration or licensing system for alternative remittance agents or non-profit organizations. Australia should also continue its leadership role in emphasizing money laundering/terrorist finance issues and trends within the Asia Pacific region and its commitment to providing training and technical assistance to the Asia/Pacific region.

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 non-financial institutions are vulnerable to money laundering. The Austrian Interior Ministry's crime statistics show mixed developments regarding financial crime in Austria in 2003, with a significant increase in serious fraud. The percentage of undetected organized crime is believed to be enormous, with much of it coming from the former Soviet Union. Organized crime is involved in money laundering in connection with narcotics-trafficking and trafficking in persons, but apparently not in connection with contraband smuggling. Money laundering occurs within the Austrian banking system as well as in nonbank financial institutions and businesses. 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 increasingly to use money transmitters and informal money transfer systems to launder money.

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.

Amendments to the Customs Procedures Act and the Tax Crimes Act, effective May 1, 2004, address the problem of cash couriers and international transportation of illegal-source currency and monetary instruments. Austrian customs authorities do not automatically screen all persons entering Austria for cash or monetary instruments. However, if asked, anyone carrying more than 15,000 euros must declare the funds and provide information on their source and use. Spot checks for currency at border crossings will continue. Customs has new authority to seize suspect cash at the border.

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. The Insurance Act of 1997 includes similar regulations for 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, financial institutions have adopted tighter identification procedures, requiring all customers appearing in person to present an official photo ID. These procedures also apply to trustees of accounts, who are now required to disclose the identity of the account beneficiary. However, the 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 Financial Action Task Force (FATF) and the European Union (EU) criticized the Government of Austria (GOA) for permitting anonymous numbered passbook savings accounts. The Austrians temporarily "grandfathered" existing accounts, but they have now nearly all been closed. 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 of 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."

The 2003 Amendments to the Austrian Gambling Act, the Business Code, and the Austrian laws governing lawyers, notaries, and accounting professionals, introduce 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; real estate agents; casinos and dealers; lawyers; notaries; certified public accountants; and auditors.

Since 2002, the AFIU, the central repository of suspicious transaction reports, has been a section of the Austrian Interior Ministry's Bundeskriminalamt (Federal Criminal Intelligence Service). During the first eleven months of 2004, the AFIU received 330 suspicious transaction reports from banks, and fielded 165 requests for information from Interpol and 85 from the Egmont Group. This represents a marked increase from the 288 suspicious transactions reported by banks in 2003, which led to seven convictions for money laundering. In 2002, 215 suspicious transactions were reported, also resulting in seven 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 that in 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. While in previous years there had been little evidence of enforcement as law enforcement units tend to be understaffed, in the first eleven months of 2004, Austrian courts froze

assets worth 25.4 million euros, under instructions from the AFIU. This is significantly more than the 2.2 million euros in assets frozen by the courts in 2003, and the 8.1 million euros frozen in 2002.

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 terrorist financing, forfeiture regulations cover funds collected or held available for terrorist 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 names of individuals and entities included on the UNSCR 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 the course of trying to establish evidence, only two accounts were designated for seizure. Both later turned out to be cases of mistaken identity.

Since January 1, 2004, money remittance businesses require a banking license from the Financial Market Authority (FMA) and are subject to supervision. Informal remittance systems like hawala 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 non-profit entities as conduits for terrorist financing. The 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 law is very similar to its predecessor, but it calls for record keeping and auditing on the part of non-profit 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. The GOA has implemented the FATF's Special Recommendations on Terrorist Financing, except for certain aspects of the recommendation regarding non-profit organizations. With regard to the recommendation on wire transfers, the GOA is waiting for an EU regulation, which is expected to be released in 2005 and will be immediately and directly applicable in Austria.

Austria has not enacted legislation that provides for sharing forfeited narcotics-related assets with other governments. However, the, mutual legal assistance treaties (MLATs) can be used as an alternative vehicle to achieve equitable distribution of forfeited assets. Work on a bilateral instrument

pursuant to the U.S.-EU Mutual Legal Assistance Agreement, with the effect of supplementing 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, is in the final stages.

The GOA has been extremely cooperative with U.S. law enforcement investigations. The Austrian FMA and the New York State Banking Department are negotiating a bilateral agreement regarding bank supervision information exchange (including on-site examinations in the host country). 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 nine other EU members (France, Germany, Italy, Netherlands, United Kingdom, the Czech Republic, Hungary, Slovakia, and Slovenia).

The International Monetary Fund's spring 2004 Financial System Stability Assessment (FSAP) states that Austria has made significant progress in the past few years in bringing its anti-money laundering and counterterrorism financing regime into compliance with international standards. The FSAP notes that the overall legal and institutional framework currently in place is comprehensive and that Austria has achieved a good level of compliance with the FATF Recommendations. The FMA has created an internal Task Force on Money Laundering, and in following up on suggestions for further improvements, started to publish on its homepage circulars with additional guidance for banks and other financial institutions on fighting money laundering and terrorist financing.

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. Austria ratified the UN Convention against Transnational Organized Crime on September 23, 2004, and 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 and the EU. The AFIU is a member of the Egmont Group.

The Government of Austria 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 terrorist financing transactions. The AFIU and law enforcement should be provided with sufficient resources to adequately perform their functions. AFIU and other government personnel should be protected against damage claims because of delays in completing suspicious transactions. Additionally, Austria should adequately regulate its charitable and non-profit 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 money laundering activity, 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.

It is reported that Azerbaijan is currently drafting comprehensive anti-money laundering legislation. 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 some money laundering activities. In November 2001, Azerbaijan established a threshold sum of $50,000 for reporting to its Customs agency currency transfers from abroad. Funds transfers abroad by individuals 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 counterterrorist finance legislation. As of December 2004, the experts group, led by the NBA, has prepared draft 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. In August 2004, the NBA established an internal anti-money laundering working group to work with local commercial banks.

In March 2004, the GOAJ enacted a comprehensive new Law on Banks that provides for improved "fit and proper" criteria for bank administrators and improved supervision of commercial banks. In November 2004, the NBA prohibited capital investments in banks operating in Azerbaijan by entities and individuals that are registered in any of the six countries on the FATF list of Non-Cooperative Countries and Territories.

The new Law on Banks prohibits numbered accounts, although existing numbered accounts are allowed to continue until their terms expire. 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. In October 2004, the NBA instructed commercial banks to establish internal procedures to identify every operation and client throughout the transaction process. Also in 2004, the NBA issued new rules on corporate management for all commercial banks.

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, but the Code does not address terrorist fundraising. Another deficiency is that the law provides only for personal liability and does not include criminal liability for entities involved in terrorist financing. The NBA distributes the lists of individuals and entities designated pursuant to U.S. Executive Order 13224 and pursuant to UNSCRs 1267 and 1390. As of 2003, the NBA had 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 a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. In November 2001, Azerbaijan ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. In February 2004, Azerbaijan signed the UN Convention against Corruption. 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 Government of Azerbaijan (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. Azerbaijan should amend current terrorist finance legislation to criminalize terrorist fundraising and establish criminal liability for legal entities. Additionally, Azerbaijan 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 par with the Bahamian dollar. Money laundering in the Bahamas falls into two main categories, financial fraud and that related to the proceeds of cocaine and marijuana trafficking.

According to the Royal Bahamas Police Force (RBPF), money laundering methods range from the purchase of real estate, large vehicles, and jewelry to the processing of money through a complex national or international web of legitimate businesses and shell companies. However, in the case of drug-trafficking crimes, the illicit proceeds usually take the form of cash or are quickly converted into cash. Amendments to and implementation of anti-money laundering laws since 2000 have hindered launderers' ability to deposit large sums of cash. As a result, a new trend has developed of storing extremely large quantities of cash in security vaults at properties deemed to be safe houses.

The Bahamas has two 24-hour casinos in Nassau and one in Freeport/Lucaya, and a fourth is scheduled to open in 2005 as part of a new resort in Georgetown. 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 are prohibited from gambling in the casinos.

The International Business Companies Act 2000 eliminates anonymous ownership of IBCs by prohibiting bearer shares and imposing know your customer (KYC) requirements. As a result, the Bahamas has become less attractive to both potential and existing IBC owners. The Central Bank of the Bahamas Act 2000 gives 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 Executive Order 13224. Key features of the Act include: provisions upgrading banking supervision, establishment of a Financial Intelligence Unit (FIU); introduction of licensing of financial and corporate service providers, the removal of bearer shares from IBCs' shareholding structures, and the granting of permission for Bahamians to own IBCs.

The number of banks and trusts declined from 301 in 2003 to 270 as of September 2004. This was due to the Central Bank's requirement that "managed banks" (those without a physical presence but which are represented 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.

During 2004, the Government of the Commonwealth of the Bahamas (GCOB) continued to implement legislative reforms that strengthen its anti-money laundering regime and make it less vulnerable to exploitation by money launderers and other financial criminals. Since being removed from the Financial Action Task Force (FATF) list of Non-Cooperative Countries and Territories (NCCT) in the fight against money laundering, the Bahamas has been working to implement legislative and regulatory reforms to fulfill international obligations. The FATF has expressed satisfaction with the

progress achieved by the Bahamas in addressing mutual legal assistance requests from member countries but continues to express concerns over regulatory requests. The FATF continues to monitor the progress the Bahamas is making in implementing its anti-money laundering regime.

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 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 who conduct 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 contribute 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 longstanding, 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 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, did not pursue a possible appeal to the Judicial Committee of the Privy Council in London.

During 2004, the FIU received over 100 suspicious transaction reports, of which, approximately 14 were passed to the police. The eight-member 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, all reports of money laundering received from law enforcement agencies or the public, and matters of large cash seizures. It also investigates local drug-traffickers and other serious crime offenders, to determine whether they benefited from their criminal conduct.

In November 2004, the Anti-Terrorism Act was passed by Parliament and assented to by the Governor General to implement the provisions of the UN International Convention for the Suppression of the Financing of Terrorism. The Attorney General's office conducted a series of public meetings with representatives from legislature and civil society, and members of public service, to garner support and educate the public on the nature of the Act. In addition to formally criminalizing terrorism and making it a predicate crime for money laundering, the law provides for the seizure and confiscation of terrorist assets, reporting of suspicious transactions related to terrorist financing, and strengthening of existing mechanisms for international cooperation in this regard. This law places the Bahamas in compliance with international standards related to terrorist financing.

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. The seized items are in the custody of the GCOB. Some are in the process of confiscation while some remain uncontested. There are currently over 20 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 United States. However, defendants can appeal a magistrate's decision in a 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 agreements with the United Kingdom and Canada. The Attorney General's Office for International Affairs manages multilateral information exchange requests. The Central Bank of the Bahamas Act 2000 expands the powers of the Central Bank to enable it to respond to requests for information from overseas regulatory authorities. The Bahamas FIU has signed several memoranda of understanding with other FIUs for the exchange of information. 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 those of the Bahamian FIU.

In December 2004, the Bahamas signed an agreement for future information exchange with the U.S. Securities and Exchange Commission to ensure that requests can be completed in an efficient and timely manner. 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 the level of its responses to international requests for assistance.

On October 2, 2001, the Bahamas signed, but has not yet ratified, 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 and is a member of the Offshore Group of Banking Supervisors. The Bahamas is a member of the Caribbean Financial Action Task Force and was Chair in 2003. The FIU is a member of the Egmont Group.

The Government of the Commonwealth of the Bahamas 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 Bahamas should provide adequate resources to its law enforcement and prosecutorial/judicial personnel to ensure that 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 most of its neighbors, oil accounts for only 25 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: 367 diverse financial institutions, including 187 banks, of which 51 are offshore banking units (OBUs); 37 investment banks; and 25 commercial banks, of which 17 are foreign owned. In addition, there are 29 representative offices of international banks, 21 moneychangers and money brokers, and several other investment institutions, including 84 insurance companies. The vast network of Bahrain's 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 an 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 Bahraini 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 financial sector regulator, issued regulations requiring financial institutions to file suspicious transaction reports (STRs), to maintain records for a period of five years, and to provide ready access for law enforcement officials to account information. 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 current requirement for filing STRs has no minimum threshold. Additionally, in early 2005, the BMA is preparing to establish a secure online website that banks and other financial institutions can use to file STRs.

The law also provides for the formation of an interagency committee to oversee Bahrain's anti-money laundering regime. Accordingly, in June 2001, the 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, Commerce, Labor and Social Affairs, and Foreign Affairs. The law further provides additional powers of confiscation, and allows for better international cooperation.

In addition, the law provides for the creation of the Anti-Money Laundering Unit (AMLU) as Bahrain's financial intelligence unit (FIU). The AMLU, which is housed in the Ministry of Interior, 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. The AMLU became a member of 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, moneychangers, insurance firms, real estate agents, gold dealers, financial intermediaries, and attorneys. Financial institutions must also file STRs with the BMA, which supervises these institutions. Non-financial institutions are required under a Ministry of Commerce (MOC) directive to also file STRs with that ministry. The BMA analyzes the STRs, of which it receives copies, as part of its scrutiny of compliance by financial institutions with anti-money laundering and combating terrorist financing (AML/CFT) regulations, but it does not independently investigate the STRs (responsibility for investigation rests with the AMLU). The BMA may assist the AMLU with its investigations, where special banking expertise is required.

In 2003, the MOC published new anti-money laundering guidelines, which govern all non-financial institutions. The MOC system of requiring dual STR reporting to both it and the AMLU mirrors the BMA's system. Good cooperation exists between MOC, BMA, and AMLU, with all three agencies describing the double filing of STRs as a backup system. The AMLU and BMA's compliance units analyze the STRs and work together on identifying weaknesses or criminal activity, but it is the AMLU that must conduct the actual investigation and forward cases of money laundering and terrorist financing to the Office of Public Prosecutor. From January through December 2004, the AMLU has received and investigated 121 STRs, ten of which have been forwarded to the courts and awaiting verdicts.

There are 51 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 the domestic banking sector. They are subject to the same regulations, on-site examination procedures, and external audit and regulatory reporting obligations.

However, Bahrain's Commercial Companies Law (Legislative Decree 21 of 2001) does not permit the registration of offshore companies or international business companies (IBCs). All companies must be resident and maintain their headquarters and operations in Bahrain. Capital requirements vary, depending on the legal form of company, but in all cases the amount of capital required must be sufficient for the nature of the activity to be undertaken. In the case of financial services companies licensed by BMA, various minimum and risk-based capital requirements are also applied (in addition to a variety of other prudential requirements), in line with international standards of Basel Committee's "Core Principles for Effective Banking Supervision."

In March 2004, Bahrain issued a Legislative Decree ratifying the Convention against Transnational Organized Crime. In June 2004, Bahrain published two Legislative Decrees ratifying the UN International Convention for the Suppression of the Financing of Terrorism, and the UN International Convention for the Suppression of Terrorist Bombings. In January 2002, the BMA issued a circular implementing the Financial Action Task Force (FATF) Special Eight Recommendations on Terrorist Financing as part of the BMA's AML regulations, and subsequently froze two accounts designated by the UNSCR 1267 Sanctions Committee and one account listed under U.S. Executive Order 13224. In early 2005, the BMA plans to issue a circular to implement the newest FATF special recommendation (#9) on cash couriers.

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. In addition, all BMA licensees are required to include details of the 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 the 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 BMA's anti-money laundering regulations, as well as the exact amount of transfers. During 2004, the BMA consulted with the industry on changes to its existing AML/CFT regulations, to reflect revisions by the FATF to its Forty plus Nine Recommendations. Revised and updated BMA regulations are expected in early 2005.

Legislative Decree No. 21 of 1989 governs the licensing of non-profit organizations. The Ministry of Labor and Social Affairs (MLSA) is responsible for licensing and supervising charitable organizations in Bahrain. (In January 2005, a cabinet reshuffle split the MLSA into the Ministry of Labor and the Ministry of Social Affairs (MSA), with the MSA keeping the charities portfolio.) In February 2004, as part of its efforts to strengthen the regulatory environment and fight potential terrorist financing, MLSA issued a Ministerial Order regulating the collection of donated funds through charities and their eventual distribution, to help confirm the charities' humanitarian objectives. The regulations are aimed at tracking money that is entering and leaving the country. These regulations require organizations to keep records of sources and uses of financial resources, organizational structure, and membership. Charitable societies are also required to deposit their funds with banks located in Bahrain and may have only one account in one bank. The MLSA has the right to inspect records of the societies to insure their compliance with the laws. Banks must report to the BMA any transaction by a charitable institution that exceeds 20,000 dinars (around $41,000). MLSA has the right to inspect records of the societies to insure their compliance with the law.

The GOB is contemplating the establishment a special court to try financial crimes, and judges are undergoing special training to handle such crimes.

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 28 Islamic banks and financial institutions. Given the large share of such institutions in Bahrain's banking community, the BMA has developed 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.

In November 2004, Bahrain hosted the inaugural meeting of the Middle East and North Africa Financial Action Task Force (MENAFATF), which decided to place its Secretariat in Bahrain's capital city of Manama. An initial planning meeting was held in Manama in January 2004, and the FATF unanimously endorsed the MENAFATF proposal in July 2004. Bahrain's leadership was instrumental in establishing and hosting this entity. As a FATF-styled regional body, it will promote best practices on AML/CFT issues, conduct mutual evaluations of its members against the FATF standards, and work with its members to comply with international standards and measures. The creation of the MENAFATF is critical for pushing the region to improve the transparency and regulatory frameworks of their financial sectors. The selection of Bahrain to host of the Secretariat of MENAFATF further demonstrates its commitment to combat financial crimes.

Bahrain has demonstrated a commitment to establish a strong anti-money laundering and terrorist financing regime and appears determined to engage its large financial sector in this effort. The government should follow through by aggressively enforcing its laws and regulations and developing and prosecuting anti-money laundering cases. The Anti-Money Laundering Unit should continue with its efforts to gain the necessary expertise in tracking suspicious transactions and in initiating and pursuing investigations in anti-money laundering and counterterrorist financing cases.

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 counter valuation in hawala transactions.

An estimated $1 billion dollars worth of dutiable goods is smuggled every year from India into Bangladesh. A comparatively small amount of goods is smuggled out of the country into India. Instead, hard currency and other assets flow out of Bangladesh to support the smuggling networks. Corruption is a major area of concern in Bangladesh. The non-convertibility of the local currency (the taka) coupled with intense scrutiny on foreign currency transactions in formal financial institutions also contribute to the popularity of both hawala and black market money exchanges. 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), which 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 the 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 the 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, although this is changing, especially in head offices. Accounting procedures used by the 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, nor does it have "safe harbor" provisions protecting reporting individuals.

Bangladesh does not have a Financial Intelligence Unit (FIU). However, the Money Laundering Prevention Department of Bangladesh Bank acts as a de facto FIU and has authority to seize assets. The Bangladesh Bank has received 148 suspicious transaction reports since the MLPA was passed in 2002, of which 134 were resolved without further action. The remaining 14 reports are under investigation. The Bureau of Anti-Corruption, which prosecuted cases under the MLPA, was pursuing 17 cases in 2004. These cases were transferred to the Anti-Corruption Commission, which officially came into existence in November 2004, where they remain pending. Police responsible for Zia International Airport have an additional 22 cases under the MLPA pending with the courts.

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 UNSCR 1267 Sanctions Committee's Consolidated List and identified an empty account of another entity. In 2004, following investigation of the accounts of an entity listed on the UNSCR 1267 consolidated list, Bangladesh Bank fined two local banks for failure to comply with Bangladesh Bank regulatory directives. Bangladesh has not signed the UN International Convention for the Suppression of the Financing of Terrorism or the UN Convention against Transnational Organized Crime. Bangladesh is a party to the 1988 UN Drug Convention, and is a member of the Asia/Pacific Group on Money Laundering.

In 2004, the Bangladesh Bank issued "Guidance Notes on Prevention of Money Laundering" and designated effective anti-money laundering compliance programs as a "core risk" subject to the annual bank supervision process of the Bangladesh Bank. Banks are required to have an anti-money laundering compliance unit in their head office and a designated anti-money laundering compliance officer in each bank branch. The Bangladesh Bank conducts training programs for compliance officers based on the guidance notes. Bangladesh Bank has identified weaknesses in the existing MLPA as an impediment to effective enforcement of the MLPA. Bangledesh has established a task force, which includes Bangladesh Bank officials, to recommend changes to the MLPA.

The Government of Bangladesh should criminalize terrorist financing. It should also create a centralized FIU to receive suspicious transaction reports and disseminate information to law enforcement. It should sign and ratify the UN International Conventions for the Suppression of the Financing of Terrorism and against Transnational Organized Crime. 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. The MPLA task force's recommendations should be considered, and appropriate changes should be made to aid in enforcement of the MPLA.

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 legislation.

As of November 2004, the Barbados domestic sector consists of six banks, two merchant banks, 38 credit unions and one money remitter. The offshore sector includes 4,635 international business companies (IBCs), 413 exempt insurance companies, and 53 offshore banks, which are all regulated and supervised by the Central Bank. The Central Bank has estimated that there is approximately $32 billion worth of assets in Barbados' offshore banks. Barbados has no Foreign Sales Corporations (FSCs) and no free trade zones.

The GOB initially criminalized 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, 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 establish internal auditing and compliance procedures. Financial institutions must also report suspicious transactions to the Anti-Money Laundering Authority (AMLA). The AMLA was established in August 2000 to supervise financial institutions' compliance with the MLPCA and issue training requirements and regulations for financial institutions.

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 under the supervision of the AMLA, and therefore 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. To enhance due diligence efforts, the 2001 International Business (Miscellaneous Provisions) Act requires the provision of more information than was previously provided with IBC license applications or renewals.

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 Ministry of Finance issues banking licenses after the Central Bank receives and reviews applications, and recommends applicants for licensing. 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 2002 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). 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 requirements. 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 December 2004, the FIU had received 55 SARs. The FIU forwards information to the Financial Crimes Investigation Unit of the police if it has reasonable grounds to suspect money laundering. The FIU continues to share information and has a very close working relationship with U.S. law enforcement.

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 United States and the GOB ratified amendments to their bilateral tax treaty in 2004. 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 (MLAT) and an Extradition Treaty between the United States 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. 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.

Barbados is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. Barbados has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption.

Although the Government of Barbados has strengthened anti-money laundering legislation, Barbados must steadfastly enforce the laws and regulations it has adopted. Barbados should be more aggressive in conducting examinations of the financial sector and maintaining strict control over vetting and licensing of offshore entities. There were a disproportionate number of financial institutions to the number of SARs reported in 2004. Barbados should ensure adequate supervision of non-governmental organizations and charities. Barbados should work to improve information sharing between regulatory and enforcement agencies. Additionally, Barbados should continue to provide adequate resources to its law enforcement and prosecutorial personnel, to ensure Mutual Legal Assistance Treaty requests are efficiently processed. Barbados should continue to take steps to bolster its ability to prosecute anti-money laundering cases.

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 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. Shadow incomes from offshore companies, filtered through small local businesses, constitute a significant portion of foreign investment. 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, which they often do.

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 non-drug 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.

In January 2005 Lukashenko signed a decree on the regulation of the gambling sector. The owners of gambling businesses will be subject to stricter tax regulations. Gamblers will have to produce a passport or other identification in order to receive a money prize, a provision intended to combat money laundering

The measures described in the AML Law apply to all entities able to conduct financial transactions in Belarus. Such entities include bank and non-bank credit and financial 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 AML Law does not ascribe specific areas of responsibility to each agency, nor does it provide a mechanism through which the AML activities should be coordinated.

The Belarusian banking sector consists of 31 banks. Within this number, 26 have foreign investors. Of those 26 banks, seven are foreign institutions (registered as foreign legal entities in Belarus) and 11 have more than 50 percent of their shares owned by foreign companies. 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. On August 24, 2004, the U.S. Treasury Department designated the privately owned Infobank a financial institution of "primary money laundering concern" under Section 311 of the USA PATRIOT Act. Infobank is a national commercial bank licensed by the National Bank of the Republic of Belarus to engage in foreign trade including foreign exchange transactions and bank operations in gems and precious metals. In issuing its proposed notice of rulemaking FinCEN determined that Infobank was well positioned to coordinate illicit activities using its subsidiary and network of affiliated entities to launder the proceeds of those activities directly through its banking operations. FinCEN has reason to believe that Infobank actively laundered funds for the former Iraqi regime of Saddam Hussein; specifically, that Infobank laundered funds illegally paid to the former regime in order to obtain contracts to purchase Iraqi oil in violation of the United Nations sanctions and programs. FinCEN also has reason to believe that one of Infobank's subsidiaries entered into contracts for the provision of humanitarian goods to Iraq with inflated values for the goods, and that the funds from the inflated values or illegal surcharges were either returned to the Iraqi government in violation of UN Oil-for-Food (OFF) program or were used to purchase weapons or finance military training through Infobank or its subsidiary. Belarusian authorities and Infobank deny that Infobank undertook these activities.

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 above 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 the person on whose behalf the transaction is being placed; disclose information about the beneficiary of a transaction; the account information 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. The law provides a "safe harbor" for banks and other financial institutions that provide otherwise confidential transaction data to investigating authorities, provided 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. Russia has 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 of terrorism 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' AML 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 Counter Terrorism Committee, the GOB refers to its AML legislation as a measure to combat terrorist finance. Despite the belief by the GOB that its terrorism legislation covers terrorist financing, the GOB is working to draft amendments to its AML Law so that it will specifically cover anti-money laundering and counterterrorist financing (AML/CTF). The draft amendment gives Belarus' FIU the powers it needs for receiving, analyzing, and distributing reports on suspicious transactions. On the other hand, the AML/CTF draft still needs improvement. The last available draft does not appear to be completely consistent with all of the FATF recommendations.

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 issued a directive prohibiting all transactions with accounts belonging to terrorists, terrorist organizations and associated persons. This directive also outlines a process for circulating to banks the list of individuals and entities included on the UNSCR 1267 Sanctions Committee's consolidated list. The National Bank is required to disseminate to banks the updates to the consolidated list and other information related to terrorist finance as it is received from the Ministry of Foreign Affairs. The directive gives banks the authority to freeze transactions in the accounts of terrorists, terrorist organizations and associated persons. Belarus has not identified any assets as belonging to individuals or entities included on the UNSCR 1267 Sanctions Committee's consolidated list.

Belarus has signed bilateral treaties on law enforcement cooperation with Bulgaria, Lithuania, the 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 October, Belarus joined the newly organized Eurasian Regional Group Against Money Laundering. In June 2003, Belarus ratified the UN Convention against Transnational Organized Crime. Belarus is a party to the 1988 UN Drug Convention and nine of the twelve conventions on counterterrorism. In September 2004, Belarus acceded to the UN International Convention for the Suppression of the Financing of Terrorism. In an additional positive step, Belarus signed the UN Convention against Corruption in April 2004.

The Government of Belarus has taken initial steps to construct an anti-money laundering/counterterrorist financing regime. Belarus should continue to enhance and implement its current legislation and should amend its anti-money laundering law in order to meet the revised FATF Recommendations. Belarus should provide adequate resources to enable its designated Financial Intelligence Unit (FIU) to operate efficiently and should establish a mechanism to improve the coordination between agencies responsible for enforcing anti-money laundering measures. Belarus should clarify whether its current AML Law covers terrorist financing, and if not, should specifically criminalize the financing of terrorism. Belarus should take action to ensure that Infobank is not conducting wittingly participating in or supporting illegal activity.

Belgium

Despite Belgium's development of a comprehensive, formalized anti-money laundering regime, issues of concern still exist. Money launderers often use notaries or buy property in an effort to create front or "dummy companies". Selling property below market value, making significant investments on behalf of foreign nationals with no connections to Belgium, making client property transactions with values disproportionate to the socioeconomic status of the client and creating a large number of companies in a short timeframe are also common methods utilized by money launderers. There also 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 anti-money laundering regulations.

With strong legislative and oversight provisions in place in the formal financial sector, Belgian officials note that criminals are increasingly turning to the informal financial sector to conduct illegal activities. The strong presence of the diamond trade within Belgium leaves the nation vulnerable to money laundering. Ninety percent of crude diamonds and 50 percent of cut diamonds pass through Belgium. Authorities have transmitted a number of cases to the Public Prosecutor relating to diamonds, and they are examining the sector closely in cooperation with local police and diamond industry officials. Additionally, the Kimberley certification process (a joint government, international diamond industry, and civil society initiative designed to stem the flow of illicit diamonds) has helped to introduce some much-needed transparency into the global diamond trade. The Government of Belgium (GOB) recognizes the particular importance of the diamond industry, as well as the potential vulnerabilities it presents to the financial sector. As such, it has distributed typologies outlining its experiences in pursuing money laundering cases involving the diamond trade, especially those involving the trafficking of African conflict diamonds.

Another growing problem, according to government officials, is the proliferation of illegal underground banking activities. In 2004, Belgian police raided a number of "phone shops"-small businesses where customers can make inexpensive phone calls and access the Internet. In some phone shops, authorities uncovered money laundering operations and hawala-type banking activities. Authorities believe that approximately 5,000-6,000 phone shops are operating in Belgium; only 1,500 of these shops are formally licensed.

Belgium is also one of the few European countries that permit the issuance of bearer bonds ("titres au porteur"), which are widely used to transfer wealth between generations and to avoid taxes. Belgian authorities are planning legislation that will end issuance of bearer bonds by 2007. Such legislation, however, has not yet been introduced. Belgium also has no reporting requirements on cross-border currency movements. According to Belgian officials, stronger controls of cross-border currency movements will be part of the Third EU Anti-Money Laundering Directive, which authorities expect to be implemented in early 2006.

Money laundering in Belgium is illegal through the Law of January 11, 1993, On Preventing Use of the Financial System for Purposes of Money Laundering. It is criminalized by Article 505 of the Penal Code, which sets penalties of up to five years' imprisonment for money laundering. The law also mandates reporting of suspicious transactions by financial institutions and provided for a Financial Intelligence Unit (FIU), the CTIF-CFI, to receive, process, and analyze the reports. In January 2004, Belgian domestic legislation implementing the Second EU Anti-Money Laundering Directive entered into force, broadening the scope of money laundering predicate offenses beyond drug-trafficking, and to include the financing of terrorist acts or organizations.

Under the Law of January 11, 1993, entities with reporting obligations must submit to the FIU transactions and information involving individuals or legal entities domiciled, registered, or established in a country or territory subject to the FATF countermeasures. The GOB passed a law on May 3, 2002, giving Belgium the authority to invoke countermeasures against countries and territories declared non-cooperative by the FATF. Belgium places appropriate restrictions on any state deemed

non-cooperative. The FIU regularly submits lists of FATF-designated non-cooperative countries to financial institutions.

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, the term "casinos" includes any establishment that conducts casino-like gambling activities. In 2004, Belgium's leading financial institutions implemented automated procedures allowing authorities to detect suspicious transactions more readily. The January 2004 legislation also imposes reporting requirements on lawyers and prohibits cash payments exceeding 15,000 euros ($19,500) or 10 percent of the total purchase price for goods and real property. An association of Belgian lawyers has appealed the law to Belgium's highest court, where a decision is expected in 2005.

Belgian financial institutions are required to comply with "know your customer" principles, regardless of the transaction amount. Further, institutions must 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 ($13,000). Records of suspicious transactions that are required to be reported to the FIU must be kept 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. Financial institutions or other entities with reporting requirements are liable for illegal activities occurring under their control. Failure to comply with the anti-money laundering legislation, including failure to report, is punishable by a fine of up to 1.25 million euros ($1.625 million).

The financial sector cooperates actively with the Federal Police as well as with the CTIF-CFI, to guard against illegal activity. No civil, penal, or disciplinary actions can be taken against institutions, or their employees or representatives, for reporting such transactions in good faith. Legislation also exists to protect witnesses, including bank employees, who report suspicions of money laundering or who come forward with information about money laundering crimes. Belgian officials have imposed sanctions on institutions or individuals that knowingly permitted illegal activities to occur.

Since its founding in 1993, the CTIF-CFI has received 83,156 disclosures and has transmitted more than 5,764 cases to the Public Prosecutor aggregating 11.1 million euros ($14.43 million). Belgium's FIU and Federal Police both transmit suspected money laundering cases to the Public Prosecutor. In 2003, the FIU transmitted 783 cases (a 24 percent decrease from 2002) to the Public Prosecutor. A majority of the notifications generating these cases resulted from disclosures made by banks and foreign exchange offices, with only 4.5 percent of notifications originating from non-financial institutions.

In 2003, the Federal Police transmitted 431 cases to the Public Prosecutor. The Federal Police utilize a number of tactics to uncover money laundering operations, including investigating significant capital injections into businesses, examining suspicious real estate transactions, and conducting random searches at all international airports. Since 1993, when Belgium criminalized money laundering, predicate charges have shifted away from trafficking of narcotics and goods and services, and more toward tax and financial fraud. In 2003, principal predicate charges were tax fraud (19.7 percent of offenses); narcotics-trafficking (19 percent); illicit trafficking in goods and merchandise, namely automobiles, alcohol, and tobacco (17.4 percent); trafficking in human beings (11 percent); organized crime (9.9 percent); financial fraud (7.8 percent); and exploitation of prostitution (5.4 percent). Terrorism was the predicate offense in 13 cases (1.6 percent) of the total. Government officials believe that the statistics for 2004 will have a similar breakdown.

Belgian courts have convicted 867 individuals for money laundering, who have received combined total sentences of 1,739 years and combined total fines of 22.66 million euros ($30 million). Belgian

authorities have confiscated more than 474 million euros ($616 million) connected with money laundering crimes.

Under Belgium's 1993 (and 2004 amended), anti-money laundering law, accounts can be frozen on a case-by-case basis if there is sufficient evidence that a money laundering crime has been committed. Banks must submit to the FIU a written report regarding any transaction of any amount that they suspect may be linked to money laundering. The FIU has the legal authority to suspend a transaction for a period of up to two working days, in order to complete its analysis. If criminal evidence exists, the FIU forwards the case to the Public Prosecutor.

In January 2004, the Belgian Legislature passed domestic legislation implementing the EU Council's Framework Decision on Combating Terrorism, which criminalizes terrorist acts and material support (including financial support) for terrorist acts, allowing judicial freezes on terrorist assets. Belgian authorities issue asset freeze orders for individuals and entities designated by the UNSCR 1267 Sanctions Committee and/or the EU Clearinghouse. Belgium lacks the legislation to administratively freeze terrorist assets, absent a judicial order or UN or EU designation. In 2004, the Federal Police created a Terrorist Financing unit within their Economic Crimes department. Since 1993, the FIU has transmitted a total of 82 cases related to terrorism to the Public Prosecutor-76 of them since September 11, 2001.

Belgium is a party to the 1988 UN Drug Convention, and in August 2004, the GOB ratified the UN Convention against Transnational Organized Crime. Belgium has signed, but not yet ratified, the UN Convention against Corruption and the UN International Convention for the Suppression of the Financing of Terrorism. In 2004, Belgium and the United States signed bilateral instruments implementing the extradition treaty and Mutual Legal Assistance Treaty, pursuant to the 2003 U.S.-EU Agreements on these subjects. The GOB exchanges information with other countries through international treaties. Belgium is a member of the FATF and the European Union. The FIU is active among its European colleagues in sharing information, and is a member of the Egmont Group. The CTIF-CFI heads the secretariat of the Egmont Group from 2005 to 2006.

With the January 2004 legislation, Belgium has a strong anti-money laundering regime. The Government of Belgium should continue to exert vigilance with regard to uncovering, investigating, and prosecuting illegal banking operations related to its diamond sector, which also has potential to be used as means to finance terrorism. Similar attention should be paid to the informal financial sector and non-bank financial institutions. Belgium should also eliminate bearer bonds and should institute more stringent reporting requirements for cross-border currency movements.

Belize

Belize is not a major regional financial center. In an attempt to diversify Belize's economic activities, authorities have encouraged the growth of offshore financial activities and have pegged the Belizean dollar to the U.S. dollar. Belize now offers financial and corporate services to nonresidents. Presently, there are eight licensed offshore banks, approximately 35,205 registered international business companies (IBCs), one licensed offshore insurance company and one mutual fund company operating in Belize. The number of offshore trusts operating from within Belize cannot be readily determined and there are also a number of undisclosed Internet gaming sites operating from within Belize. These gaming sites are currently unregulated. Currently there are no offshore casinos operating from within Belize. Belizean officials suspect that money laundering occurs primarily within the country's offshore financial sector. However, there are indications that local casas de cambios have facilitated the laundering of the proceeds from illegal activities. Money laundering, primarily related to narcotics-trafficking and contraband smuggling, also occurs through banks operating in Belize. Criminal proceeds laundered in Belize are derived primarily from foreign criminal activities. There is no evidence to indicate that money laundering proceeds are primarily controlled by local drug-trafficking

organizations, organized criminals or terrorist groups. Indications are that there is a significant black market for smuggled goods in Belize. However, there is no evidence to indicate that the smuggled goods are significantly funded by narcotic proceeds. With the exception of check forgery, Belize is not experiencing any significant increase in financial crimes.

There is one free trade zone presently operating in Belize, at the border with Mexico. Commercial Free Zone (CFZ) businesses are allowed to conduct business within the confines of the CFZ provided the Commercial Free Zone Management Agency (CFZMA) has approved them. All merchandise, articles, or other goods entering the CFZ for commercial purposes are exempted from the national customs regime. However, any trade with the national customs territory of Belize is subject to the national Customs and Excise law. The CFZMA is the supervisory authority of the free zone. The CFZMA, in collaboration with the Customs Department and the Central Bank of Belize, monitors the operations of CFZ business activities. The Commercial Free Zone Act, Chapter 278 of the Laws of Belize, prescribes the establishment, functioning, and responsibilities of the CFZMA. There is no indication that the CFZ is being used in trade-based money laundering schemes or by the financiers of terrorism.

The Money Laundering (Prevention) Act (MLPA), in force since 1996, criminalizes money laundering related to many serious crimes, including drug-trafficking, forgery, terrorism, blackmail, arms trafficking, kidnapping, fraud, illegal deposit taking, false accounting, counterfeiting, extortion, robbery, and theft. Additional legislation has been enacted to discourage individuals from engaging in money laundering, and there have been some arrests. Despite this, the effectiveness of the anti-money laundering regime in Belize remains unclear.

Offshore banks, international business companies and trusts are authorized to operate from within Belize, although shell banks are prohibited within the jurisdiction. The Offshore Banking Act, 1996 governs activities of Belize's offshore banks. The Central Bank of Belize, the same agency that regulates domestic banks, regulates offshore banks. The banking regulations governing offshore banks are different from the domestic banking regulations in terms of capital requirement. Banks are not permitted to issue bearer shares. Nevertheless, all licensed financial institutions in Belize (onshore and offshore) are governed by the same anti-money laundering legislation and must adhere to the same anti-money laundering requirements. To legally operate from within Belize all offshore banks must be licensed. 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 and that the proposed bank's capital is adequate and its business plan sound. The legislation governing the licensing of offshore banks does not permit directors to act in a nominee (anonymous) capacity.

The International Business Companies Act of 1990 and its 1995 and 1999 amendments govern the operation of IBCs. The 1999 amendment to the Act allows IBCs to operate as banks and insurance companies. The International Financial Services Commission regulates the rest of the offshore sector. All IBCs must be registered. Registered agents of IBCs must satisfy the International Financial Services Commission that they conduct due diligence background checks before IBCs are allowed to register. Although IBCs are allowed to issue bearer shares, the registered agents of such companies, must know the identity of the beneficial owners of the bearer shares. In addition, registered agents must satisfy certain criteria to obtain licenses in order to perform offshore services. Belize's legislation on IBCs allows for the appointment of nominee directors. The legislation for trust companies, the Belize Trust Act, 1992, is not as stringent as the legislation for other offshore financial services and does not preclude the appointment of nominee trustees.

The Central Bank issued Supporting Regulations and Guidance Notes in 1998. Licensed banks and financial institutions are required to "know their customers." Furthermore, banks and financial institutions are required to monitor their customer activity and report any suspicious transaction to the Financial Intelligence Unit (FIU). Banks and financial institutions must maintain records of all

banking and financing transactions for at least five years. Money laundering controls are applicable to non-bank financial institutions such as exchange houses, insurance companies, lawyers, and accountants. An important exception is that of casinos. Financial institution employees are exempted from civil, criminal, or administrative liability for cooperating with regulators and law enforcement authorities in investigating money laundering or other financial crimes.

Belize does not have any bank secrecy legislation that prevents disclosure of client and ownership information. There is no impediment to prevent authorities from obtaining information pertaining to financial crimes. Also, the reporting of all cross-border currency movement is mandatory. All individuals entering or departing Belize with more than BZ $10,000 ($5,000) in cash or negotiable instruments, are required to file a declaration with the authorities at the Customs, the Central Bank and the FIU.

There are deficiencies in the investigation process and the gathering of evidence to link assets to money laundering related offences. The establishment of the FIU is expected to address those deficiencies. In 2004 individuals associated with Target Data Processing Limited were arrested on money laundering charges.

Belize criminalized terrorist financing via amendments to its anti-money laundering legislation (The Money Laundering (Prevention) (Amendment) Act, 2002). Belizean Authorities have circulated to all banks and financial institutions in Belize the UNSCR 1267 Sanctions Committee's consolidated list and the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224. There are no indications that charitable and/or non-profit entities in Belize have acted as conduits for the financing of terrorist activities. Consequently, the country has not taken any measures to prevent the misuse of charitable and non-profit entities from aiding in the financing of terrorist activities. Belizean authorities have attempted to prevent money laundering via casas de cambios and to regulate the informal market for the U.S. dollar through licensing. This is recognized as a vulnerability that needs to be addressed.

Belizean law makes no distinctions between civil and criminal forfeitures. All forfeitures resulting from money laundering are treated as criminal forfeitures. The banking community cooperates fully with enforcement efforts to trace funds and seize assets. The FIU and the Belize Police Department are the entities responsible for tracing, seizing, and freezing assets. Currently, Belize's legislation is silent on the length of time assets can be frozen. With prior court approval, Belizean authorities have the power to identify, freeze, and seize terrorist finance or money laundering related assets. This includes vehicles, vessels, aircraft, and other means of transportation or communication. It would also include any property, tangible or intangible, which may be related to money laundering or is shown to be from the proceeds of money laundering, including legitimate businesses. There are no limitations to the kinds of property that may be seized, and all seized items become the property of the Government of Belize. However, Law enforcement lacks the resources necessary to trace and seize assets. The authorities are considering the enactment of a Proceeds of Crime law, which will address the seizure or forfeiture of assets of narcotics-traffickers, financiers of terrorism, or organized crime. The Belize Police Department reported that during the past year, the dollar amount of assets forfeited and/or seized amounted to $16,664,850, and increase over the $5,024,175 of assets forfeited and/or seized in 2003.

No laws have been enacted specifically for the sharing of assets seized in relation to narcotics or other serious crimes, including the financing of terrorism. However, the Government of Belize has entered into a bilateral treaty with the United States for the sharing of seized assets from serious crimes and actively cooperates with the efforts of foreign governments to trace or seize assets relating to financial crimes. The Belizean authorities have indicated to the Guatemalan Government their intention of signing a Memorandum of Understanding to enhance asset tracing and seizure.

Belize has signed a Mutual Legal Assistance Treaty, which provides for mutual legal assistance in criminal matters with the United States. Amendments to the MLPA preclude the necessity of a Mutual Legal Assistance Treaty for exchanging information or providing judicial and legal assistance in matters pertaining to money laundering and other financial crimes to authorities of other jurisdictions. The FIU has cooperated with the United States Department of Justice, FinCEN, FBI, Internal Revenue Service, Drug Enforcement Administration Agency and the Food and Drug Administration.

Belize is a party to the UN International Convention for the Suppression of the Financing of Terrorism, the UN Convention against Transnational Organized Crime, and the 1988 UN Drug Convention. Belize is also a member of the Organization of American States (OAS) and the Egmont Group.

The Government of Belize should increase resources to law enforcement and should provide adequate training to those responsible for enforcing both Belize's anti-money laundering/counterterrorist financing laws and its asset forfeiture regime. Belize should take steps to address the vulnerabilities in its supervision of its offshore sector, particularly the lack of supervision of the gaming sector, including Internet gaming facilities. Belize should immobilize bearer shares and mandate suspicious activity reporting for the offshore financial sector.

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 along with substantial fines. The law requires that all financial institutions report transactions above a certain threshold, but does not specify to whom these transactions should be reported. As a result, compliance with this provision of the Beninese law is very low. Cross-border currency reporting requirements also exist, but are not enforced.

The GOB has the legal authority to seize narcotics-related assets, but as of December 2004, no seizures had been made. Law enforcement authorities lack the training and resources to investigate money laundering cases. No links exist between the banking sector and the authorities to allow the tracking of large deposits.

In 2000, the Economic Community of West African States (ECOWAS) established the Intergovernmental Action Group against Money Laundering (GIABA) based in Dakar, Senegal. In November 2002, GIABA hosted an anti-money laundering seminar for representatives of 14 ECOWAS states, including Benin. The GOB has not participated in additional training since that time.

Benin 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.

Benin should criminalize terrorist financing and money laundering related to all serious crimes. The Government of Benin also should develop and implement a viable anti-money laundering/counterterrorist financing regime that comports with international standards.

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 counterterrorist 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 part of its voluntary review program. The final report has not yet been released.

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 they pertain to financial institutions, 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 review thoroughly 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 will propose a number of technical amendments to the PCA in early 2005. Additionally, the NAMLC continues to meet with different industry sectors to update the guidance notes to reflect new FATF recommendations. Implementation of the updated guidance notes is expected to coincide with the implementation of the amended PCA and related regulations.

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 with respect to the proceeds of certain listed serious offenses. Amendments in 2000, effective June 1, 2001, expanded the scope of the legislation to cover the proceeds of all indictable offenses. The Criminal Code Amendment Act 2004, passed in July 2004, creates the offenses of insider trading and market manipulation in securities markets. Fines up to $100,000 and prison terms of five years are in place for market manipulation and up to $175,000 and seven years jail time for insider trading. These provisions are in addition to existing regulations of the Bermuda Stock Exchange (BSX) that prohibit members from insider trading and market manipulation, on penalty of expulsion from the BSX.

The GOB expects to introduce legislation in early 2005 to detect/monitor cross-border transportation of cash and monetary instruments and to include gatekeepers as covered entities under its anti-money laundering laws.

In December 2002, Parliament passed the Bermuda Monetary Authority Amendment Act 2002, expanding the list of BMA objectives to include action to assist with the detection and prevention of financial crime. This legislation provides clear authority for 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 the provisions of relevant UN Security Council counterterrorism resolutions, the act—among other provisions—prescribes the manner by which the finance minister may delegate to the BMA the power to block accounts.

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 enacted the updated Investment Business Act 2003 in the winter of 2003, with an effective date for most of its provisions of January 30, 2004. The Investment Business Act 2003 enhances the

regulatory powers of the BMA by updating and clarifying the provisions for regulating investment business. 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.

Another mandate of the BMA is the licensing and supervision of deposit-taking institutions, including the worldwide operations of Bermudan 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 found it necessary 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 for trust service providers. 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 2005 session of Parliament, with an implementation date late in that year. 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.

Insurance companies are covered by the PCA to the extent that they are judged susceptible to the risk of money laundering abuse. The Insurance Act 2004 was re-introduced in the House of Assembly in late 2004. In addition to making technical amendments, the act, if adopted, would authorize the BMA to issue guidance to the insurance industry from time to time, provisions that are consistent with the IMF report.

International business forms the backbone of Bermuda's economy. The BMA reviews all proposals to incorporate companies and set up partnerships and also vets beneficial owners. As of June 30, 2004, records indicate that 13,261 international businesses were registered in Bermuda, compared to 2,958 local companies. Of the international businesses, the majority is considered "exempted," meaning that they are exempted from Bermuda laws that apply to local entities, including those restricting the portion that can be owned by non-Bermudans. International companies include 12,151 exempted companies, 546 exempted partnerships, 545 nonresident international companies (incorporated elsewhere to do business in Bermuda), and 19 nonresident insurance companies. As of December 2003, there were 1,682 insurance companies. At the close of 2003, there were 1,321 mutual fund companies and 221 unit trusts in Bermuda. Offshore banking is not permitted in Bermuda. There are no free trade zones in Bermuda.

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

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 Owned-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 normally 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 Bermuda Police Service's Financial Investigation Unit (FIU) serves as the island's financial intelligence unit, which is responsible for the criminal aspects of financial crime, including criminal tax investigations. 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 Western Union. In 2001, 2,827 SARs were filed with the FIU, decreasing to 2,570 in 2002, 275 in 2003 and 139 through November 2004. In 2001, there were two arrests for money laundering; in 2002, eight arrests representing three cases; and in 2003, six arrests. The island's first and only money laundering conviction was prosecuted in 2004. Involving $136,000, the conviction resulted in an 18-month suspended sentence due to mitigating circumstances.

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 person 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 person 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.

There were no confiscation orders in 2000, 2002, or 2003, and only one in 2001 for approximately $62,000. Through November 2004, the GOB issued two confiscation orders, for a total amount of $52,335. Forfeitures under the Misuse of Drugs Act are holding steady, with six forfeitures amounting to $18,122 in the first eleven months of 2004 compared to the $13,908 forfeited in three separate 2003 cases. Cash seized in 2004 under PCA detention orders exceeded $56,600, a drop from the $173,000 seized in 2003. In 2004 three restraint orders continue against assets in three separate cases 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 2005 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.

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. The BMA Amendment (No. 3) Act 2004 clarifies the power of the BMA to cooperate with other overseas authorities. Its passage follows challenges in Bermuda courts on a specific case in which the BMA was assisting the U.S. Securities and Exchange Commission. Other Bermuda laws also authorize the sharing of information with overseas regulators: the Banks and Deposit Companies Act 1999, the Trusts (Regulation of Trust Business) Act 2001 and the Investment Business Act 2003.

In December 2004 the Parliament passed "The Anti-Terrorism (Financial and Other Measures) Act 2004." The Act, which must now be considered by the Senate, would criminalize terrorist financing and provides the framework to ensure implementation of the FATF Special Recommendations on Terrorist Financing. It creates specific offenses relating to the raising, use or possession of funds for purposes of terrorism, imposes a duty to report suspicious activity and provides for the forfeiture of terrorist cash. The effect will be to parallel the provisions already in place under the PCA for money laundering and the proceeds of other serious crimes. Financial institutions were given the list of Specially Designated Global Terrorists designated by the U.S. pursuant to E.O. 13224 (on terrorist financing) and the UN 1267 Sanctions Committee consolidated list, but no matches were found.

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 island is, however, subject by extension to the UK Terrorism (United Nations Measures) (Overseas Territories) Order 2001. The UK Terrorism Order, which implements UN Security Council Resolution 1373, creates the offense of collecting and making funds available for terrorist purposes and provides for identification and freezing of terrorist-related funds.

The Government of Bermuda should continue to strengthen its regulations to prevent and inhibit money laundering and terrorism finance, including the enactment of legislation to implement the provisions of the FATF Special Recommendations on Terrorist Financing and new international anti-money laundering standards. It also should enact the proposed measures to detect/monitor cross-border transportation of cash and monetary instruments and 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. Bolivia is a major drug producing and drug-transit country. 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 narcotics trafficking, the evasion of taxes, and laundering of other illegally obtained earnings.

Bolivia's anti-money laundering regime is based on Law 1768 of 1997. Law 1768 modifies the penal code; criminalizes money laundering related to narcotics-trafficking, organized criminal activities and public corruption; provides for a penalty of one to six years for money laundering; and defines the use of asset seizure beyond drug-related offenses. Law 1768 also created Bolivia's 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 unit are defined under Supreme Decree 24771.

Although Law 1768 established the UIF as an administrative financial intelligence unit in 1997, the UIF did not become operational until July 1999. The UIF currently has more than 20 staff members, including the director. The director of the UIF is not a political appointee: the Superintendence of Banks and the Superintendence of Securities and Insurance elect the director to his/her position for a five-year term. It is possible for the director to be re-elected only one time. In January 2004, the term of the UIF's first director ended; he was not re-elected, and his replacement took over the operations of the UIF in February 2004.

The primary responsibility of the UIF is to collect and analyze data on suspected money laundering and other financial crimes, and to request specific information from the financial sector at the request of the Public Ministry prosecutors, investigating and prosecuting money laundering. The UIF is responsible for implementing anti-money laundering controls and has the ability to sanction covered financial institutions for noncompliance. These covered entities include banks, insurance companies and securities brokers; all are required to identify their customers, retain records of transactions for a minimum of ten years, and report to the UIF all transactions that are 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). In 2004, the UIF began to receive some of its reports electronically.

Under the current law, there is no obligation for these entities to report cash transactions above a certain threshold, as is commonplace in many countries' anti-money laundering regimes. Although, by law, the Bolivian Customs agency is permitted to share information with the UIF regarding the movement of currency into or out of Bolivia, it generally does not do so. After analyzing suspicious transaction reports and any other relevant information it may receive, the UIF reports all detected criminal activity to the Public Ministry. The UIF also has the ability to request additional information from obligated financial institutions in order to assist the prosecutors of the Public Ministry with their investigations. In 2005, the UIF plans to begin on-site inspections of covered entities in order to review their compliance with the reporting of suspicious transactions.

In 2002, the Special Group for Investigation of Economic Financial Affairs (GIAEF) was created within Bolivia's Special Counter-Narcotics Force (FELCN) to investigate narcotics-related money laundering. The UIF, the Public Ministry, the National Police and FELCN have established mechanisms for the exchange and coordination of information, including formal exchange of bank secrecy information. The full range of possibilities inherent in this mechanism has yet to be fully explored.

Corruption is a serious issue in Bolivia. However, several major convictions occurred in 2004. In December, three high-ranking police officials and one judge were convicted on charges related to narcotics-trafficking and consorting with narcotics traffickers. These convictions are considered to be truly historic. Traditionally, allegations against high-ranking law enforcement officials were routinely dismissed or forgotten; none reached the point of charges, much less prosecution and conviction. In the case of the convicted judge, a report created in part by the UIF detailing financial transactions related to the case led to the formal charges.

In spite of advances in combating money laundering, Bolivia's anti-money laundering system still has many weaknesses. The Government of Bolivia (GOB) has shown little enthusiasm for strengthening the UIF, in spite of recommendations by both the International Monetary Fund (IMF) and the Financial Action Task Force for South America (GAFISUD). Limitations in its reach and weaknesses in its basic law and regulatory framework continue to hamper the UIF's effectiveness as a financial intelligence unit. The GOB's anti-money laundering regime is also undermined by the lack of support—both legal and bureaucratic—for money laundering investigations carried out by law enforcement officials. In order to prosecute a money laundering case, Bolivian law requires that the crime of money laundering 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. Judges trying these cases are challenged to understand their complexities. There have been no convictions for money laundering to date, although one case was in the trial stage as of December 2004.

There are also serious deficiencies in Bolivia's legal framework with regard to civil responsibility. Under Bolivian law, there is no protection for judges, prosecutors, or police investigators who make good-faith errors while carrying out their duties. If a case is lost initially or on appeal, or if a judge rules that the charges against the accused are unfounded, the accused can request compensation for damages, or the judges, prosecutors, or investigators can be subject to criminal charges for misinterpreting the law. This is particularly a problem for money laundering investigations, as the law is full of inconsistencies and contradictions and is open to wide interpretation. For these reasons, prosecutors are often reluctant to pursue these types of investigations.

Several entities that move money remittances in Bolivia remain unregulated. Hotels, currency exchange houses, illicit casinos, cash transporters, and wire transfer businesses (such as Western Union), are all unregulated and can be used to transfer money freely into and out of Bolivia. Informal exchange businesses, particularly in the Santa Cruz region, are also used to transmit money in order to avoid law enforcement scrutiny.

While traditional asset seizure continues to be employed by counternarcotics authorities, until recently the ultimate forfeiture of assets was 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, however, has been poorly managed for years and only just begun to auction confiscated goods at a consistent pace.

The GOB currently lacks legislation regarding terrorist financing. Bolivia is a party to the UN International Convention for the Suppression of the Financing of Terrorism and has signed the Organization of American States (OAS) Inter-American Convention Against Terrorism. But there are no explicit domestic laws that operationalize these treaties to 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.

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. A set of draft laws—yet to be presented to Congress—would make money laundering an autonomous crime, penalized by a minimum prison term of fifteen years; increase the number of predicate offenses for money laundering, as well as the number of entities obligated to file financial reports with the Financial Intelligence Unit (FIU); and allow for the seizure of assets and the use of certain special investigative techniques. These draft laws would also require financial institutions to report cash transactions above a certain threshold and require the customs authority to provide the UIF with information regarding the physical movement of cash or monetary instruments into or out of Bolivia. In addition, the draft law would also criminalize the financing of terrorism.

Bolivia is a party to the 1988 UN Drug Convention. The GOB has signed, but not yet ratified, the UN Convention against Transnational Organized Crime, and the UN Convention against Corruption. Bolivia is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, and held the presidency of the group in 2004. Bolivia is a member of the South America Financial Action Task Force (GAFISUD) and is due to undergo its second mutual evaluation by GAFISUD in 2005. Bolivia's UIF is a member of the Egmont Group of financial intelligence units. The GOB and the United States signed an extradition treaty in June 1995, which entered into force in November 1996.

The Government of Bolivia should strengthen its anti-money laundering regime by improving its current money laundering legislation so that it conforms to the Financial Action Task Force and the standards of the South America Financial Action Task Force. Bolivia should adopt new laws making money laundering a separate offense without requiring a connection to other illicit activities, expanding the list of predicate offenses, criminalizing terrorist financing, and expeditiously blocking terrorist assets. The jurisdiction of the Unidad de Inteligencia Financiera must also be expanded to cover reporting by non-banking financial institutions, as recommended by the IMF and the South America Financial Action Task Force. Bolivia 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, fuel oils, and trafficking in persons. Foregone customs revenues due to black marketeering are estimated at $500 million per annum. Recent studies indicate that as much as 40-60 percent of the 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 BiH. Money laundering tends not to involve U.S. currency or proceeds from narcotics sales in the United States. Although the economy is primarily cash-based, with 40 percent of citizens lacking a bank account, deposits into banks have continued to increase in 2004, 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; the entity level, which includes two entities, the Federation of Bosnia and Herzegovina (Federation) and Republika Srpska (RS) plus the Brcko District; 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. Transferring authority to State-level institutions is a priority for the international community and for the Office of the High Representative (OHR).

Money laundering is a criminal offense in all State and entity criminal codes. New criminal procedure and criminal codes were enacted at the State and entity levels in 2003, with tougher provisions against money laundering, though significant time and resources will be needed to fully implement and enforce the legislation and to develop even the most rudimentary of anti-money laundering regimes. While some legal elements for anti-money laundering measures exist, Bosnia's officials and institutions lack the expertise, capability, and will to control drug-related transactions.

In June 2004, BiH adopted the Law on the Prevention of Money Laundering that came into force on December 28, 2004. This law determines the measures and responsibilities for detecting, preventing, and investigating money laundering and terrorist financing; prescribes measures and responsibilities for international cooperation; and, establishes a financial intelligence unit (FIU) within the newly-created State Investigative and Protection Agency (SIPA). The law requires banks to submit reports on suspicious financial transactions to the State-level FIU in SIPA. SIPA, like many State institutions, remains under-funded and under-resourced. The FIU in SIPA is not yet fully staffed or operational, and its scrutiny of suspicious transactions is therefore limited. It is still unclear what role entity financial enforcement authorities will play in this interim period, and how they will relate to the FIU once it is fully operational.

A National Action Plan, adopted in October 2003, incorporates Council of Europe recommendations against corruption and organized crime. The National Coordination team continued its work in 2004, establishing concrete steps and timelines for accomplishing goals in the areas of institution-building, legislative reform and implementation, and operational cooperation. In implementing the plan, BiH has taken several important steps such as the continued development of the nascent SIPA, the State Intelligence Agency and the Citizen Identification Protection System.

Customs authority rests with the State-level Indirect Tax Authority (ITA), which is not yet fully operational. As a result, in practice, the RS, the Federation and the Brcko district still operate as separate customs agencies that administer the State-level customs law. 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.

Current civil statutes governing money laundering are inadequate and insufficiently 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. All have been subject to political interference and/or direct intimidation in the conduct of their duties. Once SIPA and its FIU become completely operational, those ambiguities should lessen, but the exact relationship between all these bodies remains unclear. Governmental authorities throughout all three entities are primarily concerned with tax evasion and customs evasion.

There are 27 banks chartered in the Federation (five under provisional administration) and 10 in the RS (one under provisional administration). 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. However, an umbrella banking supervision agency at the State level, within the Central Bank of BiH (CBBH), is expected to be in place in early 2005, once changes and amendments to the law on the Central Bank are passed. Both RS and the Federation have a

Securities Commission and an Insurance Commission. The Commissions act as regulators for their respective sectors.

A number of banks, including all within the Federation, do have compliance officers. 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. BiH 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. Financial institutions must maintain detailed deposit records and to report suspicious transactions on a daily basis to regulatory authorities.

In order to avoid misuse of the banking system by multiplication of accounts, the CBBH has established a central registry of bank accounts. The Single Transaction Account Registry, which became operational on July 5, 2004, contains all the transactional accounts of the legal entities in BiH. Only the CBBH Main Units can issue data from the Registry. Any legal entity or citizen can submit a request for information from the Single Transactional Accounts Registry, provided they can justify the request and provide proof of fee payment.

The cash threshold for currency transaction monitoring is BAM (Bosnian Convertible Mark) 30,000 (about $20 000). In 2004, the Federation Financial Police received reports on 77,422 currency transactions totaling BAM 6.8 billion (about $4.6 billion) from financial institutions and customs authorities. Out of this number, 128 transactions in amount of BAM 11.1 million (about $7.5 million) were identified as suspicious and reported to prosecutors. The accounts of 1,234 fictitious companies were blocked and assets in amount of BAM 1.3 million (about $870,000) were frozen. Criminal charges were pressed against 67 individuals. From January 1 through June 30, 2004 the RS FIU received 17,082 currency transaction disclosures in the total amount of BAM 881,859 (about $600,000). During the same period the FIU issued orders to freeze BAM 57.7 million (about $39 million) in the bank accounts of 27 companies. Ten cases were sent to the RS and Brcko tax administrations for further investigation, eight cases were referred to SIPA and 6 to the State Prosecutor's Office.

There have been several multiple-defendant indictments for money laundering. Most have been disposed of by plea bargain; however, there were two money laundering trials in 2004 (one at the State level and one at the entity level) which resulted in conviction and forfeiture. In March, an individual pled guilty to money laundering and was sentenced to two years imprisonment and fined BAM 50,000 (about $34,000). In June, the BiH State Prosecutor's Office filed an indictment against four clerks of the former Kristal Bank on the grounds that they assisted the above individual in laundering BAM 18 million (about $12 million) during a twenty day period in 2003 for 150 firms.

In August, another individual reached a plea bargain with the BiH Prosecutor's Office and was sentenced to two years imprisonment. The indictment charges the owners of a company with money laundering and tax evasion allegedly involving 115 companies, mostly from the western Herzegovina region of the country. The Deputy BiH Prosecutor expects that these proceedings, which include measures against 65 persons and legal entities charged with laundering BAM 13.5 million (about $9 million) for tax evasion and document forgery, will collect at least BAM 15 million (about $10 million) for the BiH budget through fines and profit seizures.

Money laundering and asset forfeiture laws are contained in new Criminal Procedure Codes. There is a new draft law on civil confiscation, which includes an asset management and forfeiture fund. According to the draft law, forfeiture proceedings will be initiated and conducted by the Prosecutor. Asset management will be the responsibility of a unit within the State Court Police under the supervision of the Ministry of Justice. The Ministry of Justice will manage the forfeiture fund, and funds will be parceled out to various law enforcement agencies/prosecutor's offices to assist in their

operations. Adoption is expected in early 2005. There is no established mechanism to identify, trace, or share narcotics-related assets.

On October 21, 2002, UN High Representative 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; non-citizens can be extradited. BiH will not extradite its own citizens, but will prosecute them in BiH. The amendments provide Federation and RS Banking Agencies with clear legal authority to freeze assets of suspected terrorists. Federation authorities have taken significant strides to combat terrorist financing and to comply fully with pertinent UN Security Council resolutions (UNSCRs). The Federation authorities have blocked the financial and property assets of all individuals and NGOs on the UNSCR terrorist finance lists and are conducting investigations of other NGOs and individuals suspected of connections to al-Qaida.

Mutual Legal Assistance Treaties that had been signed by either the former 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. However, they lack the professional capacity to conduct complex investigations or participate fully in international financial and law enforcement fora such as Interpol and the FATF. BiH has signed bilateral agreements for information exchange regarding bank supervision with Croatia, Serbia and Slovenia. A draft agreement with Austria is in process.

BiH is a party to the 1988 UN Drug Convention but is hampered by the lack of State-level law enforcement authority. BiH is a party to the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. Bosnia and Herzegovina is a party to all 12 of the international conventions and protocols relating to terrorism. 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.

Bosnia and Herzegovina should effectively implement existing laws and banking regulations. The government of Bosnia and Herzegovina should also fully implement centralized regulatory and law enforcement authorities and fully staff the financial intelligence unit within the State Investigative and Protection Agency as soon as possible. Significant additional training should be implemented so that law enforcement, prosecutors and judges will have a better understanding of money laundering and how to pursue it. Bosnia and Herzegovina should 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. According to the Directorate on Corruption and Economic Crime (DCEC), the incidence of financial crimes in general increased dramatically in 2004. Seventy-two reports of suspected money laundering transactions were received by the DCEC during 2004, of which 38 cases are currently under investigation. This indicates heightened vigilance within Botswana's institutions with regard to the potential threat of financial crimes. The DCEC has established a special unit to address this threat.

Section 14 of the Proceeds of Serious Crime Act of 1990 criminalizes money laundering. The Bank of Botswana requires financial institutions to report any transaction in which BWP (Botswana Pula) 10,000 (roughly $2,500) or more is transferred. The Bank of Botswana has the discretion to provide information on large currency transactions to law enforcement agencies. As of early 2004, the Bankers Association of Botswana was meeting on a monthly basis; the meetings are attended by the Botswana

Police Service's investigator of serious crimes. 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 practice of laundering or otherwise dealing in illegal proceeds, or where the bank is the affiliate, subsidiary or parent company of a bank which has been convicted.

In 2003, the Government of Botswana (GOB) enacted the Banking (Anti-Money Laundering) Regulations, which are minimum guidelines to banks on the application of international best practices on anti-money laundering practices. The new regulations require banks to record and verify the identity 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 DCEC, (which acts as a financial intelligence unit) and other law enforcement authorities. In 2004, the GOB assessed the implementation of these regulations and concluded that compliance was satisfactory.

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 DCEC. Financial institutions regularly submit reports of suspicious transactions to the DCEC. In suspected cases, the Botswana Police Service can obtain a court order to intercept communications; evidence so gathered would be admissible in court. In 2004, the Government issued regulations governing bureaux de change, including measures to prevent use of these institutions to launder money.

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 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 and trustees are not allowed. Currently, no offshore trusts operate in Botswana. Shell companies are prohibited in Botswana.

There were no prosecutions for money laundering or terrorist financing in 2004. Terrorist financing is not criminalized as a specific offense in Botswana, but is prosecuted under the Proceeds of Serious Crimes Act. Also, 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 UNSCR 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 of 1990, Botswana has the authority to confiscate proceeds of terrorist finance-related assets.

Botswana is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime. Botswana officially became a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) in February 2003. It is also a member of the Southern African Forum Against Corruption (SAFAC), which combats money laundering.

While the Government of Botswana's laws and policies have been sufficient to contain the threat of money laundering and financial crimes in the past, further expansion of the international financial sector in Botswana would render them inadequate. Although the Directorate on Corruption and

Economic Crime (DCEC) is acting as a financial intelligence unit, no law specifically mandates it to do so. Botswana has yet to draw up legislation governing the micro lending sector: the DCEC expects this to take place in 2005. The Directorate on Corruption and Economic Crime (DCEC) is advocating establishment of one regulatory body for all financial organizations. The Government of Botswana is preparing a draft strategy to combat money laundering and the financing of terrorism. That strategy should include legislation to establish a financial intelligence unit with robust investigative authority and the allocation of adequate resources to ensure that such an institution possesses the skills to effectively track suspect international transactions. The legislation should also specifically criminalize terrorist financing.

Brazil

Due to its great size and large economy, Brazil is considered a regional financial center but not an offshore financial center. Brazil is a major drug-transit country. 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. An Inter-American Development Bank study of money laundering in the region found that Brazil's relatively strong institutions helped reduce the incidence of money laundering to well below the average for the region.

Money laundering in Brazil is primarily related to drugs, corruption, and trade in contraband. The Triborder Area shared by Argentina, Brazil, and Paraguay is well known for its multi-billion dollar contraband re-export trade and arms and drug trafficking. A wide variety of counterfeit goods, including cigarettes, CDs, DVDs, and computer software, are imported into Paraguay from Asia and transported primarily across border into Brazil, with a significantly smaller amount remaining in Paraguay for sale in the local economy. The area is also suspected to be a source of terrorist financing. In 2004 the Government of Brazil (GOB) continued investigating corrupt public figures, including customs inspectors, federal tax authorities, and high-ranking politicians, and the use of offshore companies to launder money.

Brazil's financial intelligence unit, the Conselho de Controle de Actividades Financieras (COAF) has also investigated 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. 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 United States, or that otherwise significantly affect the United States. 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 $3,690) 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. Law 10.467, which modified Law 9.613, was passed in June 2002. 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, the 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 approximately 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 Financial Intelligence Unit (FIU) either via the Internet or using paper forms. All of these regulations include a list of guidelines that help institutions identify suspicious transactions. COAF has direct access to the Central Bank database so that it has immediate access to the SARs reported to the Central Bank. The COAF has access to a wide variety of government databases, and is authorized to request additional information directly from the entities it supervises and the supervisory bodies of other obligated entities. Domestic authorities that register with COAF may directly access the COAF databases via a password-protected system. 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, or 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, Brazil's new omnibus drug legislation was passed, allowing 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 as 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, expected to come on-line in 2005, 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 require banks to report cash transactions exceeding 100,000 reais (approximately $36,900) to the Central Bank, establish a

department within the Ministry of Justice to recover financial assets, and designate a representative from the Ministry of Justice to the COAF.

In 2004, the GOB adopted and began implementing a new national strategy document for combating money laundering. The strategy includes 32 actions, grouped into six strategic goals: improve coordination of disparate federal and state level anti-money laundering efforts, utilize computerized databases and public registries to facilitate the fight against money laundering, evaluate and improve existing mechanisms to combat money laundering, increase international cooperation to fight money laundering and recover assets, promote an anti-money laundering culture, and prevent money laundering before it occurs. The first major coordination action taken under the new plan was the creation of a new high-level coordination council, known as the GGI-LD, led by the Ministry of Justice's Office for Asset Seizure and International Judicial Cooperation. The GGI-LD determines overall strategy and priorities, which are then implemented by COAF, which has been strengthened with additional analysts. Specific cases are then assigned to law enforcement task forces for investigation.

Implementation of much of the strategy is ongoing. Among the more ambitious efforts is the drafting of legislative changes to facilitate greater law enforcement access to financial and banking records during investigations, criminalize illicit enrichment, allow administrative freezing of assets, and facilitate prosecutions of money laundering and terrorist financing cases by refining the legal definition of money laundering and de-linking it from the current exhaustive list of predicate crimes. The GOB reportedly plans to present to Congress a bill enacting these changes in early 2005. The creation of a unified database of all money laundering investigations and of a national-level registry of real estate, which would aid investigators, is also being considered. An existing effort to create a database of all current accounts in the country, updated in real time, is also expected to come to fruition in 2005.

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—over 1000 money laundering investigations since 2000—has led to a sharp spike in the number of money laundering cases going to court. To deal with the increased caseload, Brazilian authorities passed legislation in 2003 to create seven special money laundering courts. The judges in these courts generally have received some specialized training to deal with money laundering cases.

Investigations into the scandal involving Banestado, the state bank of Parana, continued in 2004. 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 United States between 1996 and 1999, a portion of which was likely laundered. Many high-level GOB officials were implicated in this case. The Brazilian Congress began an investigation into the matter in June 2003, but the inquiry committee was considered to be polarized along party lines, and information gathered by the inquiry was leaked to the press prior to the October 2004 municipal elections. The committee concluded its inquiry on December 14, 2004, with a politicized final report recommending that law enforcement agencies indict 91 individuals in the case. Out of the 91 implicated, only two are high-level GOB officials. The final report has not yet been approved by the full Congress. The Brazilian Federal Police and the Public Ministry are expected to continue with their own investigations.

The main weakness in Brazil's anti-money laundering regime lies in the lack of legislation criminalizing the financing of terrorism. Although terrorist financing is considered to be a predicate offense for money laundering under Law 10.701 of 2003, terrorist financing is not an autonomous crime. There have been no money laundering prosecutions to date in which terrorist financing was a predicate offense, and so it remains to be seen if the financing of terrorism could be contested as an enforceable predicate offense due to the lack of legislation specifically criminalizing terrorist financing. No known laws have been drafted to criminalize the financing of terrorism. However, the GOB has responded to U.S. Government efforts to identify and block terrorist-related funds. Since September 11, 2001, COAF has run inquiries on hundreds of individuals and entities, and has searched its financial records for entities and individuals on the UNSCR 1267 Sanctions Committee's consolidated list. None of the individuals and entities on the consolidated list was found to be operating or executing financial transactions in Brazil, and the GOB insists there is no evidence of terrorist financing in the area. The United States, however, remains concerned that the Triborder area with Paraguay and Argentina,—infamous for contraband of all kinds, including arms, drugs and pirated goods—lacks enforcement of currency controls and cross-border reporting requirements, and is suspected to be a source of terrorist financing. In November 2003, the GOB extradited an alleged financier, Assad Ahmad Barrakat, to Paraguay on charges of tax evasion; he was convicted in May 2004 and sentenced to six and one-half years in prison. Because of his suspected links to the terrorist group Hizballah, the U.S. Government designated and froze the assets of Barrakat and two of his businesses in June 2004 under Executive Order 13224 on Terrorist Financing.

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 Special Recommendations on Terrorist Financing. Brazil is a party to the 1988 UN Drug Convention and has signed, but not ratified, UN Convention against Corruption. On January 29, 2004, the GOB ratified the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. 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, and a bilateral Customs Mutual Assistance Agreement was negotiated in 2002 and signed in 2004, and is expected to enter into force in February 2005. The GOB also participates in the "3 Plus 1" Counter-Terrorism Dialogue between the United States and the Triborder Area countries.

The Government of Brazil should criminalize terrorist financing as an autonomous offense, 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. Brazil should also enforce currency controls and cross-border reporting requirements, particularly in the Tri-border region. Additionally, Brazil and the Conselho de Controle de Actividades Financieras (COAF), the Financial Intelligence Unit, 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 11 banks, 2,023 mutual funds with 448 licensed mutual fund managers/administrators, 312 local and captive insurance companies, 1000 registered vessels, 90 licensed general trust companies, and 544,000 international business companies (IBCs). 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. The law transfers responsibility for regulatory oversight of the financial services sector from a government body, the Financial Services Department, to the FSC, an autonomous regulatory body. The process for registering banks, trust companies, and insurers is governed by legislation that requires detailed documentation, such as a business plan and vetting by the appropriate supervisor within the FSC. Registered agents must verify the identities of their clients.

The Proceeds of Criminal Conduct Act of 1997 expands 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. Under the Financial Investigation Agency Act 2003, implemented in 2004, the FIU was reorganized and renamed the Financial Investigation Agency.

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.

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 BVI 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 current status of this proposal is not available.

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.

The BVI has criminalized terrorism and terrorist financing through the Terrorism (United Nations Measures)(Overseas Territories) Order 2001 and the Anti-Terrorism (Financial and Other Measures)(Overseas Territories) Order 2002. The BVI is a member of the Caribbean Financial Action Task Force and received a second mutual evaluation of its financial sector and regulations during November 17-21, 2003. The BVI is subject to the 1988 UN Drug Convention and as a British Overseas Territory has implemented measures in accordance with this convention and the UN Convention against Transnational Organized Crime. Application of the U.S./UK Mutual Legal Assistance Treaty concerning the Cayman Islands was extended to the BVI in 1990. The Financial Investigation Agency is a member of the Egmont Group.

The Government of the British Virgin Islands should continue to strengthen its anti-money laundering regime by fully implementing recently passed legislation.

Brunei

In 2000, The Government of Brunei Darussalam adopted anti-money laundering legislation referred to as the Money Laundering Order and created a presiding organization called the National Anti-Money Laundering Committee (NAMLC), comprised of the: Financial Institutions divisions; Ministry of Finance (Domestic); Brunei International Financial Center (BIFC); Attorneys General's Chambers (AGC); Royal Brunei Police Force (RBPF); Royal Customs and Excise Department; Anti-Corruption Bureau; Narcotics Control Bureau; Immigration Department and Brunei Currency and Monetary Board. Brunei also implemented an asset seizure and forfeiture law, and the Criminal Conduct (Recovery of Proceeds) Order. This legislation applies both domestically and offshore. There are three offshore banks: Royal Bank of Canada, HSBC, and Hong Kong-based Sun Hun Kai.

In 2001, Brunei set into motion its plans to become an offshore financial center by bringing into effect a series of laws that established the Brunei International Financial Center (BIFC). The relevant laws are: the International Business Companies Order 2003 (amended from 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 2001; the Securities Order 2003 (originally established in 2001) and the International Insurance and Takaful Order 2002.

The BIFC offers general banking, Islamic banking, insurance, international business companies (IBCs), trusts (including asset protection trusts), mutual funds, and securities services. The BIFC also launched a virtual Stock Exchange in 2002. Bearer shares are not permitted, but nominee shareholders are allowed for IBCs. Brunei residents are allowed to become shareholders of IBCs. Currently more than 2,500 companies are in the BIFC database, although many appear to be inactive. The Government also recently established the Brunei Economic Development Board to attract more foreign direct investment. There are no exchange controls.

Brunei has no Central Bank. Acting through the Financial Institutions Division and the Head of Supervision, a segregated unit of the Ministry of Finance oversees the BIFC. This unit combines both regulatory and marketing responsibilities. The multi-disciplinary group is comprised of persons responsible for the supervision of banking, insurance, corporations, and trusts.

In 2002, Brunei enacted the Drug Trafficking Recovery of Proceeds Act and the Anti-Terrorism Financial and other Measures Orders. The latter explicitly criminalize the financing and support of terrorism.

Brunei is a party to the 1998 UN Drug Convention and to the UN International Convention for the Suppression of the Financing of Terrorism. Brunei became a member of the Asia/Pacific Group on Money Laundering (APG) in 2003. The APG's Terms of Reference include a commitment to adopt the international standards contained in the revised FATF Forty Recommendations on Money Laundering and the Special Nine Recommendations on Terrorist Financing.

The Government of 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, or immobilized the bearer shares.

Bulgaria

Bulgaria is not considered an important regional financial center. However, Bulgaria is a major transit point for drugs into Western Europe, and financial crimes, including fraud schemes of all types; smuggling of persons and commodities; and other organized crime offenses also generate significant proceeds. Financial crimes—including significant tax fraud and credit card fraud—are prevalent. The sources for money laundered in Bulgaria likely derive from both wholly domestic as well as international criminal activity. Organized crime groups operate very openly in Bulgaria. There have been significant physical assaults on Bulgarian public officials as well as journalists who challenge organized crime operations. Smuggling remains a problem in Bulgaria and is undoubtedly sustained by ties with the financial system.

Government of Bulgaria (GOB) officials believe the operation of duty free shops within Bulgaria plays a major role in facilitating the smuggling of cigarettes, alcohol and luxury goods, and the execution of financial crimes. Ministry of Finance (MOF) customs and tax authorities have supervisory authority over the duty free shops. According to these authorities, reported revenues and expenses by the shops very clearly have included activities other than duty free trade. Identification procedures are also lacking. MOF inspections have revealed that it is practically impossible to monitor whether people who buy commodities at the numerous duty free shops actually cross the state border. Attempts by the MOF to close down 44 of the 57 shops operating in Bulgaria have been defeated, particularly due to the efforts of the government's junior coalition partner

Criminal proceeds are moved through Bulgaria from 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 recently increased, 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.

In February 2004, Parliament adopted a revised National Strategy for fighting serious crime. The crime strategy covers a two-year period and focuses on the importance of cooperation between various government agencies such as the Tax and Customs Administration, the Interior Ministry, and Bulgaria's financial intelligence unit (FIU), the Financial Intelligence Agency. However, despite the GOB's 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 predicate crimes are addressed elsewhere in the Penal Code.

Other administrative money laundering provisions contained in the Law on Measures Against Money Laundering (LMML) address customer identification and record keeping requirements, suspicious transaction 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 by travelers of all Bulgarian and foreign currency in cash, including traveler's checks, in excess of approximately 2,500 euros. Due to corruption and inefficiency in the Customs Service, enforcement of this requirement is irregular.

During April 2003, Parliament passed legislation amending the (LMML)-further strengthening anti-money laundering measures. The amendments expand the types of covered institutions and groups to a total of 29 different categories of covered institutions, all of which are subject to suspicious and currency transaction reporting requirements. These include lawyers, real estate agents, auctioneers, tax consultants and security exchange operators. The amendments also require covered institutions to demand an explanation of the source of funds for "operations or transactions in an amount greater than Bulgarian leva 30,000 (approximately 15,000 euros) or its equivalent in foreign currency; or exchange of cash currency in an amount of leva 10,000 (approximately 5,000 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 legal ethic rules.

The legislation also introduces a currency transaction reporting requirement of 30,000 leva (15,000 euros), thus bringing Bulgaria into compliance with the European Union's (EU) Second Directive on Money Laundering. The LMML obligates financial institutions to a five-year record keeping requirement and provides a "safe harbor" to reporting entities. Penal Code Article 253B was enacted in 2004 to establish criminal liability for noncompliance with LMML requirements. Although case law remains weak, in September 2003 for purposes of EU accession, Bulgaria's anti-money laundering legislation was determined to be in full compliance with all EU standards. To date, the banking sector has exhibited the most awareness of anti-money laundering standards and has been responsible for the largest number of suspicious transaction reports (STRs) of suspected money laundering. The absence of reports from exchange bureaus, casinos, non-bank financial institutions, dealers in high-value goods and other reporting entities can be attributed to a number of factors, including lack of understanding of money laundering reporting requirements, lack of resources (e.g., inspection staff) and effective regulatory controls, and an overall lax enforcement of the anti-money laundering policy by government officials.

The LMML amendments 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. They further institutionalize and guarantee functional independence of the FIU's director and provide 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 also authorized to perform on-site compliance inspections. Since high-value goods dealers have been required to report since 2001, and there is no supervisory authority, the FIA also acts as the compliance authority for this sector. 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. 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 is an administrative unit and does not participate in active criminal investigations. The FIA forwards reports of potential criminal activity to the Prosecutor's Office, which then has the discretion to open an investigation by referring the case to either law enforcement officers from the Ministry of Interior (MOI) or investigating magistrates from the National Investigative Service (NIS). The MOI

and the NIS are the two agencies responsible for investigating money laundering and the predicate criminal activity leading to it. If the Prosecutor's Office determines that an STR referred by the FIA does not merit prosecution, the FIA has the authority to appeal the Prosecutor's decision. Between November 2003 and October 2004, the FIA received 439 STRs and 65,465 currency transaction reports (CTRs). The STRs had a total combined value of 163.3 million euros. On the basis of the forwarded STRs, 437 cases were opened. Also during the same one-year period, the FIA referred 57 cases, representing over 35 million euros, to the Supreme Prosecutor's Office of Cassation and 167 cases with a total value of over 94 million euros to the Ministry of Interior. During the first 10 months of 2004, the FIA forwarded 37 reports to supervisory authorities for administrative action.

Although money laundering has been pursued in court cases, there has never been a conviction for the crime. In general, there are very few successful prosecutions for other financial crimes and predicate criminal activity that give rise to money laundering. This is mainly due to the fact that prosecutors, investigators, and law enforcement officials, especially at the district level, lack significant training in money laundering. GOB officials, however, hope that this trend is changing. During 2004, 22 money laundering investigations were opened at the NIS under Article 253 of the Penal Code. Also, at least five investigations resulted in arrests for money laundering. The prosecution service has reported that there were three indictments in 2004 specifically for money laundering, with thirty cases presently under investigation

Bulgaria has strict and wide-ranging banking, tax, and commercial secrecy laws that limit the dissemination of financial information absent the issuance of a court order based on evidence of a committed crime. While the FIA enjoys an exemption from these secrecy provisions, they apply to all other government institutions and often are cited as an impediment to the performance of legitimate law enforcement functions. In a small effort to remedy the situation in 2004, amendments made to the Bulgarian Penal Code to permit the repeal of overly broad tax secrecy provisions, improving dissemination of some information previously covered by tax secrecy laws.

There are few if any indications of terrorist financing connected with Bulgaria. The GOB amended its Penal Code at Article 108a to criminalize terrorism and terrorist financing. Under Article 253 of the Criminal Code, terrorist acts and financing qualify as predicate crimes under Bulgaria's "all crimes" approach. The GOB also enacted the Law on Measures Against Terrorist Financing (LMATF) in February 2003, which links counterterrorist measures with financial intelligence and compels all covered entities to report suspicion of terrorism financing or pay a penalty of 25,000 leva. The law was passed consistent with the FATF Special Recommendations on Terrorist Financing. The law legislates a link between the FIA and terrorism financing, and authorizes the agency to use its financial intelligence to that end as well as in fighting money laundering.

Under the provisions of the LMATF, the state may freeze assets of a suspected terrorist for up to 45 days. The various lists generated by the UN, EU and United States of individuals and entities associated with terrorism have been circulated by the FIA, in cooperation with the Bulgarian National Bank, to the commercial banking sector and elsewhere. To date, no suspected terrorist assets have been identified, frozen, or seized by Bulgarian authorities.

There are no known initiatives underway to address alternative remittance systems. Although they may operate there, Bulgarian officials have not acknowledged their existence. In general, regulatory controls over non-bank financial institutions are still lacking, with some of those institutions engaging in banking activities absent any regulatory oversight. Similarly, exchange bureaus are subject to minimal regulatory oversight, and some anecdotal evidence suggests that charitable and non-profit legal status is frequently abused by some organizations. As part of its ongoing effort to strengthen its anti-money laundering and counterterrorist financing regime, the GOB has made non-bank financial institution oversight deficiencies a top priority for 2005.

In cases where a conviction has been obtained, the Bulgarian Penal Code provides legal mechanisms for forfeiting assets (including substitute assets in money laundering cases) and instrumentalities. Bulgaria's money laundering and terrorist financing laws both include provisions for identifying, tracing, and freezing assets related to money laundering or the financing of terrorism. Key players in the process of asset freezing and seizing, as prescribed in existing law, include the MOI; MOF, including FIA; Council of Ministers; Supreme Administrative Court; Sofia City Court; and the Prosecutor General. However, a comprehensive asset forfeiture law has yet to be enacted. In 2002, the MOI drafted an asset forfeiture law. But some experts have assessed the draft law as draconian and deficient.

Bulgaria has had several false starts in its attempts to enact asset forfeiture legislation, largely due to concern about the broad powers that could be afforded by the enactment of such a law. In response, the MOI in particular, and with the support of international counterparts, adopted a public awareness campaign to address those issues and re-drafted the legislation to reflect necessary political compromises. At the end of 2004, the Bulgarian Parliament was considering a new draft civil asset forfeiture law that incorporates the experts' recommendations. As a result of the revisions to the draft as well as a high level of political support for the passage of a civil asset forfeiture law, it is anticipated that the new draft law will be enacted before the end of 2005. The draft civil asset forfeiture law envisions an inter-institutional body that will be specifically tasked with criminal asset tracing responsibilities. In addition, MOI officials are in the early stages of collaboration with EU counterparts to establish a formal intelligence sharing network specifically related to asset tracing.

The United States does not have a mutual legal assistance treaty with Bulgaria. Information is exchanged formally through the letter rogatory process. Currently, the FIA has bilateral memoranda of understanding (MOU) regarding information exchange relating to money laundering with Belgium, the Czech Republic, Latvia, the Russian Federation, Slovenia, Canada, Australia, and Spain. Bulgaria is negotiating, and expects in 2005 to execute MOUs with Bolivia, Brazil, Cyprus, the Netherlands Antilles, Serbia and Montenegro, Thailand, and Ukraine. Between November 2003 and October 2004, the FIA sent 261 requests for information to foreign FIUs and received 68 requests for assistance from foreign FIUs (the FIA has replied to 62 so far). Twenty-four of the 68 requests for assistance were submitted by the United States and were related to persons designated as terrorists or supporters of terrorism pursuant to Executive Order 13224. The GOB has also entered into an intergovernmental agreement with Russia that promotes anti-money laundering cooperation.

Bulgarian authorities have a good record of cooperation with USG counterparts. In 2004, Bulgarian law enforcement and prosecutors, joined by international counterparts, took part in international operations that have resulted in arrests and prosecutions in both Bulgaria and the United States for significant financial crimes, including money laundering, credit card fraud, and counterfeiting.

Bulgaria 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 (especially with regard to non-bank financial institutions) and the consistency of its Customs reporting enforcement.

The Government of Bulgaria should enact and implement proposed measures to address forfeiture and seizure of criminal assets. Bulgaria should also establish procedures to identify the origin of funds used to acquire banks and businesses during privatization. Bulgaria should provide sufficient resources to the Financial Intelligence Agency (FIA) and incorporate technological improvements. The FIA should also continue to work cooperatively with all institutions having a role to play in combating money laundering to ensure full implementation of Bulgaria's 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 has 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 2002, 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, had approved the draft in 2003. The final stages include approval of the Cabinet and the adoption by the National Assembly which is expected to happy during the spring session ending in March 2005. 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. 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 that would comport with international standards.

Burma

Burma, a major drug producing and trafficking country, 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.

In October 2004, the Financial Action Task Force (FATF) withdrew countermeasures against Burma that it had called upon member countries to impose in 2003 for Burma's failure to remedy deficiencies to its anti-money laundering regime identified in 2001 when the FATF placed Burma on its Non-Cooperative Country and Territories list. The October FATF decision came in response to passage in April 2004 of the "Mutual Assistance in Criminal Matters Law" (MLA) along with subsequent amendments and implementing regulations to the MLA and the 2002 "Control of Money Laundering Law."

In January 2004, the Government of Burma (GOB) took steps to improve its money laundering law. It set a threshold amount for reporting cash transactions by banks and real estate companies, albeit at a high level of 100 million kyat (approximately $100,000). The government also formally named representatives to a financial intelligence unit established in December 2003. At the request of the FATF, in October 2004 the government added fraud to its list of predicate offenses for money laundering and made clear that there was not a threshold amount for money laundering offenses associated with any of the listed predicate crimes. Shortly thereafter, in November 2004, Burma further amended its money laundering law to specify a penalty of up to three years imprisonment and/or fine, for "tipping off" that a suspicious transaction report has been filed on a particular individual.

These moves amended regulations instituted in 2003, which had set out 11 predicate offenses, including narcotics activities, human and arms trafficking, cyber crime, and "offenses committed by acts of terrorism," among others. The 2003 regulations also called for suspicious transaction reports (STRs) by banks, the real estate sector, and customs officials, and imposed severe penalties for non-compliance.

Despite the lifting of countermeasures, Burma remains on the FATF's list of non-cooperative countries and territories because of remaining shortcomings in its anti-money laundering regime. As of January, 2005, the United States has maintained the countermeasures it adopted in April, 2004, against Burma. At that time, the United States issued final rules finding the jurisdiction of Burma and two private Burmese banks, Myanmar Mayflower Bank and Asia Wealth Bank to be "of primary money laundering concern," and requiring U.S. banks to take certain special measures with respect to all Burmese banks, including Myanmar Mayflower and Asia Wealth Bank in particular. These rules were issued by FinCEN of the Treasury Department pursuant to Section 311 of the 2001 USA PATRIOT Act.

The rules prohibit certain U.S. financial institutions from establishing or maintaining correspondent or payable-through accounts in the United States for, or on behalf of, Myanmar Mayflower and Asia Wealth Bank and, with narrow exceptions, all other Burmese banks. Myanmar Mayflower and Asia Wealth Bank have been directly linked to narcotics-trafficking organizations in Southeast Asia. In December 2003, the Burmese Government announced an investigation of these two private banks. However, in 2004 there were no publicly available interim reports or other evidence of progress in these investigations.

Burma remains 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 Section 311 rules complement the 2003 Burmese Freedom and Democracy Act (renewed in July 2004) and an accompanying executive order.. These laws imposed new economic sanctions on Burma following the Burmese government's May 2003 attack on pro-democracy leader Aung San Suu Kyi and her convoy. New sanctions prohibit the import of Burmese-produced goods into the United States, ban the provision of financial services to Burma by U.S. persons, freeze the assets of identified Burmese

institutions including the ruling junta, .and expand visa restrictions to include managers of state-owned enterprises, among other officials and family members associated with the regime.

Burma holds observer status in the Asia/Pacific Group on Money Laundering and is a party to the 1988 UN Drug Convention. Over the past several years, the Government of Burma (GOB) has 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. Burma has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. In March 2004, Burma ratified the UN Convention against Transnational Organized Crime.

The Government of Burma now has in place a framework to allow mutual legal assistance and cooperation with overseas jurisdictions in the investigation and prosecution of serious crimes. 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 or encourage widespread use of informal remittance or "hundi" networks. Burma should create an 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. Burma should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and criminalize the funding of terrorism.

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 donors. 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 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. In late 2004, the Government of Burundi indicated that it was drafting legislation on money laundering.

Burundi has signed, but not ratified, both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

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.

The Government of 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. Burundi should also criminalize terrorism and the financing of terrorism.

Cambodia

Cambodia is not an important regional financial center. Nevertheless, Cambodia remains vulnerable to money laundering. It has a very weak anti-money laundering regime, a cash-based economy with an active hawala system, porous borders with attendant smuggling, and widespread official corruption. The National Bank of Cambodia (NBC) has made some strides in recent years by beginning to regulate the small banking sector, but other non-bank financial institutions, such as casinos, remain outside its jurisdiction. The Ministry of Interior has legal responsibility for oversight of the casinos, but beyond receiving a cut of the proceeds and providing security, it exerts little supervision over them. The GOC continues to work on draft legislation that would criminalize money laundering and the financing of terrorism, but the law is not expected to pass before late 2005. In the meantime, the NBC has a compendium of legally binding regulations (Prakas) that it plans to issue in 2005 that will prohibit money laundering and terrorism financing.

Cambodia's banking sector is small, with thirteen general commercial banks and four specialized commercial banks. There is some evidence of financial deepening but overall lending and banking activity remains limited. Recently, one of Australia's largest banks, ANZ Banking Group Ltd, decided to enter the Cambodian market through a joint venture. Otherwise, the banking sector is largely dominated by a handful of Cambodian-owned banks such as Canadia, Mekong, and the government-owned Foreign Trade Bank.

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 are no reports to indicate that banking institutions themselves are knowingly engaged in money laundering, but some money laundering in relatively small amounts does occur in the banking system, typically involving the proceeds of smuggling, narcotics-trafficking, or corruption. The NBC regularly audits individual banks to ensure compliance with laws and regulations. There is a standing requirement for banks to declare transactions over $10,000. The NBC says its audits reveal that this requirement is generally followed. There is evidence that at least one major bank has not performed proper due diligence to prevent potential money laundering through its accounts. Having become aware of unusual transfers into some of its accounts from overseas, the bank did not question the source or structuring of the money transfers and may have unwittingly facilitated a money laundering operation. For its part, the NBC did not uncover the nature or source of the money transfers through its audits of this bank. A more likely route for money laundering in Cambodia is through underground banking or unregulated non-banking financial institutions. Neither the NBC nor any other Cambodian entity is responsible for identifying or regulating these informal and underground banking networks.

With political stability and the gradual return of normalcy in Cambodia after decades of war and instability, bank deposits have continued to rise and the financial sector shows some signs of deepening as domestic business activity continues to increase in the handful of urban areas. Nevertheless, foreign direct investment in the general economy remains limited and is on a downward trend, largely due to the high risks of doing business in Cambodia, including an incomplete legal framework, inadequate legal enforcement, and official corruption.

There is no apparent increase in the extent of financial crime over the past year. There is a significant black market in Cambodia for smuggled goods, including drugs, but little evidence that smuggling is funded primarily by drug proceeds. Heroin is smuggled through Cambodia to other countries. Most of the smuggling that takes place is intended to circumvent official duties and taxes and involves items such as fuel, alcohol and cigarettes.

Some government officials and their private sector associates have a significant amount of control over the smuggling trade and thus its proceeds. Cambodia has a cash-based and dollar-based economy, and the smuggling trade is usually conducted in dollars, which facilitates money laundering. Such

proceeds are rarely transferred through the banking system or other financial institutions. Instead, they are readily 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. In addition, neither money laundering (except in connection with drug trafficking) nor terrorism financing is a specific criminal offense in Cambodia at this time.

The NBC does not have the authority to apply anti-money laundering controls to non-banking financial institutions such as casinos or other intermediaries, such as lawyers or accountants.

The major non-banking financial institutions in Cambodia are the casinos, where foreigners are allowed to gamble but most Cambodians are not. The regulation of casinos falls under the jurisdiction of the Ministry of Interior, although the Ministry of Economy and Finance issues casino licenses. The Interior Ministry stations a few officials at each casino. It does not appear that Interior Ministry staff at the casinos exercise any supervision over casino operations, beyond making sure that the Ministry receives its share of casino payouts. There are roughly a dozen casinos in Cambodia, with several more under construction. Most are located along Cambodia's borders with Thailand or Vietnam. There is one casino located in Phnom Penh that has somehow escaped the regulation that all casinos be at least 200 kilometers from Phnom Penh. It would appear that the casinos operate relatively unregulated and with no real supervision.

Most casino patrons hand-carry their money across the border. For high-dollar patrons, the casinos have accounts with major banks, usually in Thailand. In practice, the patron wires a large amount of money to one of these accounts in Thailand. After a quick phone call to verify the transfer, the casino in Cambodia issues the appropriate amount in chips. The casinos do no due diligence as to the source of the money, regardless of whether it is hand-carried into Cambodia or wired into a Thai bank.

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 October 2003, the NBC issued a circular to assist banks in identifying suspicious transactions. In addition to the NBC, the Ministries of Economy and Finance, Interior, Foreign Affairs and Justice also are involved in anti-money laundering matters.

The 1996 and 1999 laws include provisions for customer identification, suspicious transaction reporting, and the creation of an Anti-Money Laundering Commission (AMLC) under the Prime Minister's Office. The composition and functions of the AMLC have not yet been fully promulgated by additional decrees, and the NBC currently 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 is not a party to the 1988 UN Drug Convention. On November 11, 2001, Cambodia signed both the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. It has yet to ratify the former; it has acceded to the latter. Cambodia has assisted neighboring countries with money laundering investigations. While Cambodia is drafting legislation that would specifically address terrorism financing, it currently does not have any laws that do so. It does circulate to financial institutions the list of individuals and entities included on the UN 1267 Sanctions Committee's 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 designated terrorist financiers 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.

In June 2004, Cambodia joined the Asia/Pacific Group on Money Laundering (APG) as an observer. The APG has 30 members, including the U.S., and it is run as a FATF-style regional body. Among its other activities, the APG conducts mutual evaluations of members' anti-money laundering and terrorism financing efforts. The APG plans to conduct an evaluation of Cambodia in 2005. Hopefully, that evaluation will facilitate the passage of AML/CFT laws and regulations. The GOC also plans to work with the APG members to establish a Financial Intelligence Unit (FIU). In order to decide where to locate the FIU, an "unofficial" Anti-Money Laundering Committee was formed recently, consisting of the NBC and the Ministries of Commerce, Foreign Affairs, Finance and Justice. The Committee held its first session in December 2004.

A Working Group of the National Anti-Drug Committee was formed on November 26, 2003 to draft legislation that meets international standards. The Working Group includes the NBC and the Ministries of Interior, Justice, Economy and Finance, and Foreign Affairs. In 2004, the Working Group continued its work on draft legislation to update Cambodia's AML/CFT laws and procedures. However, there were no substantive accomplishments in terms of strengthening Cambodia's legal or institutional framework for combating financial crimes. There were no arrests for money laundering in 2004.

Among other priority actions, the Working Group's draft legislation and action plan to fight money laundering and the financing of terrorism envisions the following: criminalizing money laundering and the financing of terrorism; ratification of all 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.

The draft legislation also addresses preventive obligations related to customer due diligence, record keeping, internal controls, reporting of suspicious transactions and setting up an FIU to receive, analyze and disseminate information and to supervise compliance with all relevant laws and regulations. Absent passage of the draft legislation in 2005, the NBC plans to issue a series of regulations that have the force of law (Prakas) and that will criminalize money laundering and terrorism financing, as well as update existing financial rules and regulations.

Cambodia should pass the draft anti-money laundering and counterterrorist financing legislation as soon as possible. Cambodia should also engage fully with the Asia/Pacific Group on Money Laundering and take full advantage of its upcoming mutual evaluation to enact whatever additional policies and procedures are necessary to meet international standards. Cambodia should ratify the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. The larger question remains the government's ability and will to enforce these measures once they are in place.

Cameroon

Cameroon is not a major regional financial center. Cameroon has not been experiencing an increase in financial crimes, but has dealt with banking irregularities in the past year. Despite creating anti-money laundering legislation, the process of implementing the regulations is not complete, and Cameroon is still vulnerable to money laundering and terrorist financing.

Cameroon is a member of the Central African Economic and Monetary Union (CEMAC), and shares a regional Central Bank (BEAC) with Central African Republic, Chad, Congo-Brazzaville, Equatorial Guinea and Gabon. As a consequence, the Government of Cameroon (GOC) has essentially given up banking regulatory sovereignty to this institution. The GOC is also a member of the Banking

Commission of Central African States (COBAC), an organization within CEMAC. COBAC supervises the banking systems in CEMAC countries, ensuring the legality of the operations carried out by financial institutions. Following the 2001 terrorist attacks in the United States and subsequent United Nations resolutions, CEMAC member countries formed the Central African Action Group Against Money Laundering (GABAC) to draft a common anti-money laundering law to apply to all CEMAC countries. Cameroon, as a member of CEMAC, participates in the Ministerial Committee that adopts regulations, which as supranational laws are enforceable in all member states without specific legislation in each country.

The country-specific offices of GABAC are the National Agencies for Financial Investigation (NAFI). In Cameroon, the creation of this group has been delayed due to economic reasons. In view of these delays, the governor of BEAC, along with the secretariat of COBAC, adopted a new set of regulations giving COBAC the authority to act on money laundering and terrorism financing suspicions. Money laundering, and most financial crimes in general, are criminal offenses, and COBAC has the authority to investigate complaints, seize assets, prosecute individuals (including malfeasant bankers), and revoke banking licenses of banks that knowingly commit financial crimes. The regulations implement the FATF Forty Recommendations and nine UN resolutions on terrorism financing.

COBAC and GABAC require banks to record and report the identity of customers engaging in large transactions once the NAFI is created, and to keep a record of large transactions for five years. The threshold for reporting large transactions will be set at a later date by the CEMAC Ministerial Committee. All investigations are conducted in accordance with banker confidentiality requirements. To date, there have been no arrests related to financial crimes, but COBAC expects to fully implement the regulations in Cameroon once its staff is trained in February 2005.

The largest concern for Cameroon in terms of money laundering and terrorist financing is in the form of cross-border currency transactions and companies that transfer money internationally. BEAC has not addressed this problem to date and there are currently no laws to regulate such transfers. This is particularly troublesome to COBAC because they see it as the most vulnerable section of the financial sector.

COBAC is also responsible for circulating to its financial institutions the list of individuals and entities that have been included on the UN 1267 Sanctions Committee's consolidated list as being linked to Usama Bin Ladin, al-Qaida or the Taliban, or other groups identified by the United States or the European Union. Cameroon is a party to the 1988 UN Drug Convention and is bound by UNSCR 1373 and UNSCR 1267 as a member of the UN, but has only submitted reports to the 1373 committee. Cameroon has not signed the UN International Convention for the Suppression of the Financing of Terrorism. Cameroon has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

The Government of Cameroon should work with the Banking Commission of Central African States (COBAC) to fully implement applicable regulations and to establish an anti-money laundering regime capable of thwarting terrorist financing, including the enactment of cross-border currency reporting requirements. Cameroon should criminalize terrorist financing and become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Canada

Canada has implemented several measures in recent years to reduce its vulnerability to money laundering and terrorist financing. Canadian financial institutions, however, remain susceptible to currency transactions involving international narcotics proceeds, including significant amounts of funds in U.S. currency derived from illegal drug sales in the United States. The United States and Canada 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 has no offshore financial centers.

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 money laundering offenses was expanded and now covers all indictable offenses, including terrorism and the trafficking of persons.

The PCMLTFA creates 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.

A second set of regulations, published in May 2002, relates 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. 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.

Money service businesses, casinos, accountants, and real estate agents handling third-party transactions are required to report suspicious financial transactions. During 2004, the reporting requirements for the legal profession were 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.

The FIU, the Financial Transactions and Reports Analysis Center of Canada (FINTRAC), was established in July 2001. 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 counterterrorist 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.

FINTRAC now receives mandatory reports on all international electronic funds transfers, cash transactions, or cross-border movements of Canadian $10,000 or more. During 2003-2004, FINTRAC received more than 9.5 million reports. The majority of the reports were filed electronically; of these reports, some 350, totaling approximately $500 million, were thought of as suspicious transactions. 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 revised laws and regulations. No prosecutions occurred in 2003 or 2004.

In a November 2004 report to Parliament, Canada's Auditor General stated that "privacy concerns restrict FINTRAC's ability to disclose intelligence to the Police, and as a result, law enforcement and security agencies usually find that the information they receive is too limited to justify launching investigations." Additionally, U.S. law enforcement officials have echoed concerns that Canadian privacy laws and the high standard of proof required by Canadian courts inhibit the full sharing of timely and meaningful intelligence on suspicious financial transactions. Such intelligence may be critical to investigating and prosecuting international terrorist financing or major money laundering investigations. Recently, the concern has been the inability of U.S. and Canadian law enforcement

officers to exchange promptly information concerning suspected sums of money found in the possession of individuals attempting to cross the U.S.-Canadian border.

The PCMLTF enables Canadian authorities to deter, disable, identify, prosecute, convict, and punish terrorist groups. Canada has signed and ratified all 12 United Nations Conventions pertaining to terrorism and terrorist and has listed all terrorist entities designated by the UN. As of June 2002, STRs are required on financial transactions suspected to involve the commission of a terrorist financing offense. The GOC has also searched financial records for groups and individuals on the UNSCR 1267 Sanctions Committee's consolidated list. Canada has listed and frozen the assets of more than 420 entities.

FINTRAC has the authority to negotiate information exchange agreements with foreign counterparts. It has signed 10 memoranda of understanding to establish the terms and conditions to share intelligence with FIUs, and is negotiating several other memoranda. Canada has longstanding agreements with the United States on law enforcement cooperation, including treaties on extradition and mutual legal assistance. Canada has provisions for asset sharing, and exercises them regularly.

Canada is a member of the Financial Action Task Force (FATF) 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). In June 2002, FINTRAC became a member of the Egmont Group. Canada is a party to the OAS Inter-American Convention on Mutual Assistance in Criminal Matters. Canada is a party to the UN International Convention for the Suppression of the Financing of Terrorism, the UN Convention against Transnational Crime and the 1988 UN Drug Convention. The GOC has signed, but not yet ratified, the UN Convention against Corruption.

The Government of Canada continues to take significant steps to reduce its vulnerability to money laundering and terrorist financing. Canada should continue its efforts to work toward ensuring the timely sharing of financial information that may be critical to international terrorist financing or major money laundering investigations. Canada also should continue its active participation in international fora dedicated to the fight against money laundering and terrorist financing.

Cape Verde

Cape Verde is not a regional financial or banking center, nor is it a significant location for money laundering. There are only four banks that operate in country, and three of these (Banco Comercial do Atlantico, Banco Interatlantico, and Caixa Economica) are subsidiaries of Portuguese banks. The fourth bank was purchased from a Portuguese banking institution by Cape Verdean investors in 2004. Because of the close linkages between the strongest banks and their Portuguese parent companies, there is a great sensitivity in the banking sector to the requirements of the European Union with regard to financial transactions.

The two unique features of banking and financial operations in Cape Verde are the following: The importance of remittances from emigrant Cape Verdeans for the national economy (approximately 16 percent of GDP) and the growth of tourism (primarily on the islands of Sal and Boavista). The country's main vulnerability for money laundering is with the rapid development of tourist infrastructure, but there does not appear to any evidence that money laundering is indeed taking place.

Cape Verde passed money laundering legislation in 2002. Reportedly, no cases of money laundering have been brought under the statute since its enactment. The asset seizure provisions of the legislation therefore remain untested. The legislation has broad provisions to combat money laundering, and it is not limited exclusively to narcotics-related activities. Because the overwhelming amount of banking transactions are carried out with Portuguese-affiliated banks, the levels of information technology and

record keeping in the financial sector is considered quite high. The banks are subject to inspection of an independent Central Bank.

Although Cape Verde is not a narcotics producing country, there is mounting evidence that Cape Verde is being used as a transit country for drugs, particularly drugs being shipped from South America to Europe. There are nonstop flights weekly from Cape Verde to Brazil, and daily nonstop flights from Cape Verde to Portugal or other locations in Western Europe. During calendar year 2004, the Cape Verdean police seized several hundred pounds of pure cocaine, all of which was being prepared for shipment by air from Cape Verde to Europe. In December 2004, a local prosecutor who had allegedly been looking into narcotics matters was shot and seriously wounded, allegedly as a "shock attack" by an individual or group affiliated with narcotics-trafficking.

Cape Verde maintains active contacts with a number of United States and Western European police forces, particularly with the Judiciary Police of Portugal. From all available evidence, cooperation between Cape Verde's police and its foreign counterparts has been excellent.

Cape Verde is party to the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and to the UN Convention against Transnational Organized Crime, as well as the UN International Convention for the Suppression of the Financing of Terrorism. Cape Verde should criminalize terrorist financing.

Cayman Islands

The Cayman Islands, a United Kingdom (UK) Caribbean overseas territory, continued to make strides in its anti-money laundering program in 2004, but the islands remain vulnerable to money laundering due to their significant offshore sector. With a population estimated at around 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 over 500 banks and trust companies, 3000 mutual funds, and 500 captive insurance companies that are licensed in the Caymans.

Since the year 2000, the Cayman Islands has passed and amended several anti-money laundering (AML)-related 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).

Money laundering regulations that entered into force in late 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 one-time transactions 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) access to audited account information from licensees who are incorporated under the Companies Law (2001 Second Revision) and 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.

The Monetary Authority Law enacted in December 2002 grants the CIMA independence with respect to licensing and enforcement powers over financial institutions. Unlike earlier versions of the Monetary Authority Law, this one contains no requirement that the 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.

The Cayman Islands is subject to the U.S./UK Treaty concerning the Cayman Islands, relating to Mutual Legal Assistance in Criminal Matters. The Cayman Islands, through the United Kingdom, is also subject to the 1988 UN Drug Convention. In addition, the Cayman Islands is a member of the Caribbean Financial Action Task Force (CFATF) and the Egmont Group.

The Cayman Islands should continue its efforts to implement its anti-money laundering regime. The Cayman Islands should criminalize 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 between 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 UNSCR 1267 Sanctions Committee's consolidated list and the list of Specially Designated Global Terrorists designated by the U.S. pursuant to E.O. 13224. As of the end of 2004, 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, but the Central African Action Group Against Money Laundering (GABAC), a CEMAC entity created in Chad in December 2000, has not yet formally endorsed them. As a result, Chad has not adopted the regulations into its local law, although Chad has a low threshold for the reporting of transactions already in place. The CEMAC 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 also 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 receive legal protection for cooperating 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. It is not a party to either the UN Convention against Transnational Organized Crime or the UN International Convention for the Suppression of the Financing of Terrorism.

The Government of Chad should criminalize terrorist financing and money laundering. Chad should become a party to the UN Convention against Transnational Organized Crime and 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. Chad should work through the GABAC for the approval of the draft anti-money laundering and counterterrorist financing legislation, and then ensure their domestic application and implementation.

Chile

Chile has a large, well-developed banking and financial sector, and it is a stated goal of the government to turn Chile into a major regional center. The Chilean government does not think there is a significant money laundering problem, but information is lacking as to the extent of money laundering activity. Money laundering appears to be primarily narcotics-related, and until 2003, money laundering was only a crime when it involved the direct proceeds of drug offenses. Chile is not considered to be 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 identify and combat money laundering.

Money laundering in Chile is criminalized under Law 19.366 of January 1995 and Law 19.913 of December 2003. Prior to the approval of Law 19.913, Chile's anti-money laundering program was based solely 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 and offered no "safe harbor" provisions protecting banks from civil liability; 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 Ilícito de Estupefacientes) within the CDE functioned as Chile's Financial Intelligence Unit (FIU) until a new FIU with broader powers was created under Law 19.913.

Law 19.913 went into effect on December 18, 2003. Under Law 19.913, predicate offenses for money laundering 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 the new financial intelligence unit, the Unidad de Análisis Financiero (UAF), within the Ministry of Finance, which has replaced the CDE as Chile's FIU. Law 19.913 requires mandatory reporting of suspicious transactions by banks and financial institutions, brokerage firms, financial leasing companies, general funds-managing companies and investment funds-managing companies, the Foreign Investment Committee, money exchange firms and other entities authorized to receive foreign currencies, credit cards issuers and operators, securities and money transfer and transportation companies, stock exchanges, stock exchange brokers, securities agents, insurance companies, mutual funds managing companies, forwards and options markets operators, tax free zones' legal representatives, casinos, gambling houses and horse tracks, customs general agents, auction houses, realtors and companies engaged in

the land development business, and notaries and registrars. The law also requires that obligated entities maintain registries of cash transactions that exceed 450 unidades de fomento (approximately $12,000), and imposes record keeping requirements (five years). All cash transaction reports contained in the internal registries must be sent to the UAF at least once per year, or more frequently at the request of the UAF. 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.

Shortly after the passage of Law 19.913 in September 2003, 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 held that some of the powers granted to the UAF in the law violated privacy rights guaranteed by the constitution. The tribunal's decisions eliminate the ability of the UAF to request background information from government databases or from the reporting entities (including information on the reports they submit) and prevent UAF from imposing sanctions on entities for failure to file or maintain reports, or for failure to lift bank secrecy protections. The law went into effect in December 2003 without the above-mentioned powers. A new bill has been drafted to give the UAF the ability to fine or sanction reporting entities for noncompliance with the reporting requirements. The UAF was initially granted this power in the original version of Law 19.913, but the constitutional tribunal objected to this section on grounds of due process. The new bill, if passed, will address the due process issues by allowing the individual or entity 15 days to contest the sanction, and also create sanctions by the regulatory agencies prior to sanctions administered by the UAF. The bill will establish processes through which the UAF can request information from other government entities.

The UAF began operating in April 2004, and began receiving suspicious transaction reports (STRs) from reporting entities in May 2004, and had received 25 STRs as of October 2004. STRs from financial institutions are received electronically, via a system known as SINACOFI (Sistema Nacional de Comunicaciones Financieras) that is used by banks to distribute information in an encrypted format among themselves and the Superintendency of Banks. The UAF has not yet developed a suspicious transaction disclosure form for entities other than banks and financial institutions, and therefore, has not received STRs from non-financial institutions. Non-bank financial institutions currently do not fall under the supervision of any regulatory body. It is estimated that the UAF will average roughly 50-80 STRs per year. Cash transaction reports (CTRs) are only reported upon request, and, as of October 2004, the UAF had only requested CTRs from currency exchange houses. Reports on the transportation of currency and monetary instruments into or out of Chile must be to the customs agency, which sends the reports to the UAF on a daily basis.

After receiving a STR, the UAF may request account information on the subject of the STR from the institution that filed the report. The UAF may also request CTRs from reporting entities at any time, but is required by law to request at least once per year all CTRs filed from each institution. If the draft law is passed, the UAF will be able to request information from any entity that is required to file STRs, even if that entity did not file the STR that is being investigated. The draft law will also permit the UAF to request information from any entity that is not required to report suspicious transactions, if that information is necessary to complete the analysis of an STR, and will allow the UAF access to any government databases necessary for carrying out its duties. In order to perform these functions detailed in the draft law, the UAF will need the authorization of the Santiago Appeals Court. However, in the case of access to government databases, the UAF only needs court authorization for protected information, such as information related to taxes.

The Consejo de Defensa del Estado (CDE) continues to analyze and investigate any cases opened prior to the establishment of the UAF. Until June 2005, all cases that are deemed by the UAF to require further investigation will be sent to the CDE. The UAF has not yet sent any cases to the CDE for further investigation. After June 2005, the Public Ministry (the public prosecutor's office) will be responsible for receiving and investigating all cases from the UAF. 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. The Public Ministry has up to two years to complete an investigation and prosecution.

Given the above legislative restrictions, no money laundering cases were prosecuted in 2004. At the same time, the Chilean investigative police (PICH) are actively cooperative in pursuing money laundering investigations.

Terrorist financing in Chile is criminalized under Law 18.314 and Law. 19.906. Law 19.906 went into effect in November 2003 and modifies Law 18.314 in order to sanction more efficiently 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. The Government of Chile (GOC) circulates the UNSCR 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. 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. 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.

Chile is a party to the 1988 UN Drug Convention, and ratified the UN Convention against Transnational Organized Crime in November 2004. In November 2001, Chile became a party to the UN International Convention for the Suppression of the Financing of Terrorism. On December 11, 2003, the Chile 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 CDE became a member of the Egmont Group of financial intelligence units in 1997, and the UAF was vetted by the Egmont Group in October 2004 to replace the CDE.

In the establishment of the UAF, the Government of Chile has created an FIU that essentially surmounts the deficiencies of the CDE and meets the Egmont Group's definition of a financial intelligence unit. However, there remain several weaknesses that may hinder the operations of the UAF, such as its inability to sanction reporting entities or individuals for failure to file reports and its lack of access to information from other government agencies. Chile 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. If the abilities of the UAF remain limited by the current version of the new law, the steps that have been taken in Chile over the past years to create a regime capable of investigating, punishing, and deterring financial crime may be severely limited, if not negated. Chile should take all necessary steps to ensure that its FIU becomes a viable entity capable of combating money laundering and terrorist financing to the best of its abilities.

China, People's Republic of

Money laundering remains a major concern as the People's Republic of China (PRC) restructures its economy. A more sophisticated and globally connected financial system in one of the world's fastest growing economies will offer significantly more opportunities for money laundering activity. 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, often return to the PRC disguised as foreign investment, and as such, receive tax benefits. Speculation on a possible currency revaluation has also been fueling illicit capital flows into China throughout 2004. Hong Kong-registered companies figure prominently in schemes to transfer corruption proceeds and in tax evasion recycling schemes. The International Monetary Fund estimates that money laundering in China may total as much as $24 billion.

After conducting studies on 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 non-cash 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 large renminbi transactions, including single credit transfers of over 1 million renminbi (RMB) ($120,500), cash transactions above 200,000 RMB ($24,000), and domestic fund transfers of over 200,000 RMB, and are expected to report suspicious RMB transactions and 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 criminalized money laundering under Article 191 for three categories of predicate offenses-narcotics-trafficking, organized crime, and smuggling. In 2001, Article 191 was amended to add terrorism as a fourth predicate offense. Additionally, Article 312 criminalizes complicity in concealing the proceeds of criminal activity, and Article 174 criminalizes the establishment of an unauthorized financial institution.

While official scrutiny of cross-border transactions is improving, the Chinese Government is also moving to loosen capital-account restrictions. For example, as of January 1 2005, travelers can take up to 20,000 renminbi ($2,400) in or out of the country on each trip, up from 3,000 renminbi ($360) previously. New provisions allowing the use of renminbi in Hong Kong have also created new loopholes for money laundering activity. Authorities are also allowing greater use of domestic, renminbi-denominated, credit cards overseas. Such cards can now be used in Hong Kong, Macau, Singapore, Thailand, and South Korea. SAFE reported that in the first six months of 2004, it uncovered 300 money laundering cases involving more than $1 billion. Over 50 percent of suspicious transactions came through Hong Kong, followed by the United States, Japan, and Taiwan.

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, asset 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 remains with the PBOC, the country's Central Bank, along with the Ministry of Public Security in terms of enforcement.

A new anti-money laundering law is being drafted under the direction of a ministerial-level coordinating committee that was created in 2004. This new law is expected to broaden the scope of existing anti-money laundering regulations and to establish more firmly PBOC's authority over national anti-money laundering efforts. No date has been set for passing the new law, but authorities expect passage during 2005.

In 2004, the PBOC established a Financial Intelligence Unit (FIU) called the Anti-Money Laundering Monitoring and Analysis Center, which will supervise the monitoring of suspicious transactions. This move was an important accomplishment of the Anti-Money Laundering Strategy Team tasked with developing the legal and regulatory framework for countering money laundering in the banking sector. The team is chaired by a Vice-Governor of the PBOC and is composed of representatives of the PBOC's 15 functional departments. It had earlier 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 allowed for immediate electronic supervision of transactions, collection of statistical data, and reporting and analysis of transactions. A separate Anti-Money Laundering Bureau was established at the PBOC in late 2003 to coordinate all anti-money laundering efforts in the PBOC and among other agencies, and to supervise the creation of the new FIU.

In spite of China's 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, which in some regions reportedly account for over one-third of lending activities. China has made some efforts in recent years to crack down on underground lending institutions. In an August 2004 speech, PBOC Governor Zhou Xiaochuan said the government had closed 153 underground money centers and illegal banks since 2002.

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.

To remedy these deficiencies, the PBOC is launching a national credit-information system in early 2005. Using this system, banks will have access to information on individuals as well as on corporate entities. PBOC rules obligate financial institutions to perform customer identification and due diligence, and record keeping. However, there is currently no legislative instrument—only administrative rules—requiring customer due diligence and record keeping. SAFE implemented a new regulation on March 1, 2004 requiring non-residents, including those from Hong Kong, Macau, Taiwan, and Chinese passport holders residing outside mainland China, to verify their real names when opening bank accounts with more than $5,000.

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 U.S. and international efforts to identify, track, and intercept terrorist finances, specifically through implementation of United Nations Security Council counterterrorist financing resolutions.

China's concerns with terrorist financing are generally regional, focused mainly on the western province of Xinjiang. 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—estimated by the Chinese Government at about 10 percent of the formal economy, but probably larger—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 United States 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 2004. 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 UNSCR 1267 Sanctions Committee for inclusion on its consolidated list. In December 2003, China unilaterally decided to list several individuals and "East Turkistan" groups as terrorists, and requested that domestic and foreign financial entities freeze their financial assets. East Turkistan is the name for Xinjiang province used by these separatist groups.

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 provides 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. The next one is scheduled for February 21, 2005. 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. Bilateral cooperation on anti-money laundering was further strengthened through a series of training seminars conducted by the U.S. Treasury Department and the National Committee on U.S.-China Relations in July 2004.

In late 2004, China joined the newly-created Eurasian Group (EAG), a Financial Action Task Force (FATF)-style regional group which includes Russia and a number of Central Asian countries. China had previously declined to join the Asia/Pacific Group on Money Laundering (APG), the Asia Pacific regional FATF-style body, due to Beijing's concerns over Taiwan's membership in the APG.

The Government of the People's Republic of China should continue to build upon the substantive actions taken in recent years to develop a viable anti-money laundering/terrorist financing regime consonant with international standards. Important steps include expanding its list of predicate crimes

to include all serious crimes, and continuing to develop a regulatory and law enforcement environment designed to prevent and deter money laundering. China should clarify Article 120 of its criminal code to make clear whether the law applies to third parties. China should ensure that the FIU is an independent, centralized body with adequate collection, analysis and disseminating authority, including the ability to share with foreign analogs and law enforcement. China should provide for criminal penalties for non-compliance with requirements that financial institutions perform customer identification, due diligence, and record keeping as well as incorporating the suspicious transaction-reporting requirement into law. China should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Colombia

Colombia, a major drug producer, is a regional leader in the fight against money laundering. Comprehensive anti-money laundering legislation regulations have allowed the government to refine and improve its ability to combat financial crimes and money laundering. Nevertheless, the laundering of drug money from Colombia's large and lucrative cocaine and heroin trade continues to penetrate its economy and affect its financial institutions. Additionally, a complex legal system and limited resources for anti-money laundering programs constrain the effectiveness of the Government of Colombia's (GOC) efforts. The extent of money laundering is related to a number of criminal activities—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)—and is carried out, to a significant degree, by officially recognized Foreign Terrorists Organizations (FTO's). The GOC and post law enforcement organizations (LEO's) are closely monitoring transactions that could disguise terrorist finance activities for local FTOs or Islamic terror organizations.

Colombia's economy is robust and diverse, and is fueled by a significant export sector that ships goods such as oil, flowers, and coffee to the U.S. and beyond. While Colombia is not a regional financial center, the banking sector is mature and well regulated. An increase in financial crimes, such as bank fraud, not related to money laundering or terrorist financing, has not been widely seen in Colombia, although criminal elements have used the banking sector to launder money, under the guise of licit transactions. Money laundering has occurred in the non-bank financial system, and in particular related to transactions that support the informal or underground economy. Colombian money launderers also use offshore centers to move funds, that are generally derived from illicit drug transactions.

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, Ecuador 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. From a money laundering standpoint, casinos in Colombia lack regulation and transparency, making them a target ripe for abuse. Free trade

zones in some areas of the country likewise present opportunities for smugglers to take advantage of lax customs regulation or the corruption of low-level officials to move products into the informal economy.

Colombian law requires that financial institutions maintain records of account holders and financial transactions. Financial entities must issue Suspicious Activity Reports (SAR's) on any transaction that raises concern. Colombia's banks operate under strict compliance controls, and work closely with the GOC, other foreign governments, and private consultants to ensure system integrity. Secrecy laws have not been an impediment to bank cooperation with law enforcement officials. Authorities often initiate money laundering investigations on the basis of the details provided by SAR reporting. Citizens are afforded rights to privacy, however, and authorities carry out money laundering investigations in accordance with legal requirements to protect those rights. Financial institutions are not protected by law nor are they exempt from compliance with law enforcement obligations. General negligence laws and criminal fraud provisions ensure that the financial sector complies with its responsibilities while protecting consumer rights.

Colombian law is unclear about the government's authority to block assets of individuals and entities on the UNSCR 1267 Sanctions Committee's Consolidated List. The GOC distributes the list widely among financial sector participants and banks are able to close accounts, but not seize assets. Banks also monitor other lists, such as the U.S. Office of Foreign Assets Control (OFAC) publications, to ensure that services are denied to criminal elements, through the closing of accounts and denial of services.

Widespread corruption of government officials has not been reported. The GOC has taken dramatic steps to ensure the integrity of its most sensitive institutions and senior government officials. The government regulates charities and NGOs to ensure compliance with Colombian law and to guard against their involvement in terrorist activity. The NGO regulation consists of several layers of scrutiny, including the regulation of incorporation procedures and the tracing of suspicious financial flows via the collection of intelligence or SAR reporting. Moreover, Colombia is improving its ability to regulate alternative remittance systems. These systems include networks of informal cash remittances through family member connections or the use of smuggling rings that forms the backbone of the Black Market Peso Exchange.

Colombia has broadly criminalized money laundering. In 1995, Colombia established the "legalization and concealment" of criminal assets as a separate criminal offense. In 1997, Colombia more generally criminalized the laundering of the proceeds of extortion, illicit enrichment, rebellion, and narcotics-trafficking. Effective in 2001, Colombia's criminal code extended 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 nonconviction-based asset 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 in Colombia's principal counternarcotics statute, Law 30 of 1986. In 1996, Colombia added non-conviction-based forfeiture with the enactment of Law 333 of 1996, which establishes a process that allows for the extinguishing of ownership rights for assets tainted by criminal activity. This process is only the first step in Colombian law, which requires a second judicial procedure to

transfer the title from the original owner to the GOC. This second procedure can take years if the original owner decides to fight the transfer. Despite an 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 September of 2002, the GOC took additional forceful measures to remove practical obstacles to the effective use of forfeiture to combat crime by issuing a decree to suspend application of Law 333 and implement more streamlined procedures in forfeiture cases. In December, the government refined and formally adopted these reforms when it enacted Law 793 of 2002. In addition, Law 793 repealed 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 the property. Law 793 also required expedited consideration of forfeiture actions by judicial authorities, and establishes a fund for the administration of seized and forfeited assets.

In December 2002, the GOC strengthened its ability to administer seized and forfeited assets by enacting Law 785 of 2002. This statute provided 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 before a final forfeiture order, including assets seized prior to the enactment of the new law. In 2004, the Department of Administration of Property within the Prosecutor General's office seized nearly 17,000 properties. The DNE, with assistance from the United States Marshals Service, is developing a modern asset management and electronic inventory system for tracking and managing seized assets.

Colombia, in December 2002, changed its asset forfeiture law to resemble an analogous law in the United States. The GOC shortened the amount of time for challenges and moved the focus from the accused to the seized item (cash, jewelry, boat, etc.), placing a heavier burden on the accused to prove the item was acquired with legitimately obtained resources. There was a 25 percent increase in money laundering prosecutions and a 42 percent increase in asset forfeiture cases in 2004. According to the office of the Prosecutor General, the total value of seized assets held by the GOC is estimated to total over six billion U.S. dollars.

The Colombian government has been aggressively pursuing the seizure of assets obtained by drug traffickers through their illicit activities. As a prime example, for the last two years the Colombian National Police Special Investigative Unit (CNP/SIU), in conjunction with DEA and the Colombian Prosecutor General, has been investigating the Cali Cartel business empire under the Rodriguez Orejuela brothers. A series of investigations designed to identify and seize assets either purchased by money gained through illegal drug activity or assets used to launder drug proceeds took place under Operation DINASTIA. In October 1995, under Executive Order 12978, OFAC named a Colombian national pharmacy chain, "Drogas La Rebaja", as a Specially Designated Narcotics-trafficking (SDNT) entity. After a lengthy investigation by Colombian law enforcement, on September 16, 2004, the CNP/SIU mobilized 3,200 police officers and 465 Colombian prosecutors nationwide in order to seize approximately 480 retail stores of the "Drogas La Rebaja" drug store chain. As part of the operation, authorities also seized the largest pharmaceutical laboratory in Colombia. This is the largest asset forfeiture in Colombia to date. The operation took place in 28 of the 32 Colombian departments over three days. The Colombian Direccion Nacional de Estupefacientes (DNE) took control of the stores and has replaced the top 24 company executives with DNE administrators. All 4,200 company employees will continue to work, but all company profits are to be dedicated to counternarcotics programs.

The public and political response to asset forfeiture has been positive. Press reports have been matter-of-fact concerning asset seizure operations, and the court-sanctioned nature of the seizure orders mitigates political pressure. In general, Colombians recognize the relationship between criminals and their illicitly gotten gains. The banking sector has been cooperative with law enforcement activity based on judicial orders. Banks and other financial sector entities are also mindful of USA PATRIOT Act provisions that require action against criminals that fall under the jurisdiction of that act. Criminals in Colombia often act violently against vigorous law enforcement activities. As a result, GOC officials at all levels of involvement must guard against retaliatory actions.

Colombia formally adopted legislation in 1999 to establish a unified, central financial intelligence unit, the "Unidad de Informacion y Analisis 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. Covered 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 non-compliance, 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. The U.S. and Colombia exchange information and cooperation based on the 1998 UN Drug Convention. 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 U.S.

A financial investigative unit, formed within the Colombian National Police Intelligence and Investigations Unit (DIJIN) in 2002, has worked on 68 cases, some of which have been closed by investigation and arrests. This unit works closely with the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security. The 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 addition to asset seizures, the CNP Airport interdiction groups in Bogota, Medellin, and Cali have seized approximately three million dollars in cash from couriers returning from the United States and Mexico. Also, the DNE reported the seizure of over 1,400 vehicles, 371 boats, and 282 aircraft during CY 2004.

Colombia is a member of the South American Financial Action Task Force (GAFISUD), the Financial Action Task Force (FATF) regional anti-money laundering organization. In 2004, Colombia continued to participate in the mutual evaluation process by providing experts for the mutual legal evaluations of other GAFISUD countries. The Director of UIAF is director of the GAFISUD FIU Working Group,

and in 2004 participated on the GAFISUD Executive Director Selection Committee and on the Budget Committee. 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, and ratified the convention in September, 2004.The GOC has not specifically criminalized the financing of terrorism, although terrorist financing crimes can be prosecuted under other sections of law. The GOC has signed, but not ratified the UN Convention against Corruption and the UN Convention against Transnational Organized Crime, along with the protocol on trafficking in persons, in August, 2004.

Despite Colombia's comprehensive anti-money laundering laws and regulations, enforcement continues to be a challenge in 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 as continuing problems.

The Government of Colombia should specifically criminalize the financing of terrorism. Colombia should also amend its anti-money legislation to include all serious crimes and should penalize all covered entities that do not file SARs or CTRs. Colombia should also take legislative action to strengthen forfeiture and other aspects of money laundering enforcement, eliminate procedural impediments, and devote additional resources to prosecutors and investigators dealing with money laundering and asset forfeiture.

Comoros

The Union of the Comoros (the Comoros) is not a principal financial center for the region. An anti-money laundering (AML) law, which addresses many of the primary AML issues of concern, was passed by Presidential Decree prior to the March 2004 elections. However, Comoros authorities lack the capacity and will to effectively implement and enforce the legislation. The Comoros consists of the islands of Grande Comore, Anjouan and Moheli. Since Comoros gained independence from France in 1975, political instability has been a chronic problem. In 1997, the islands of Anjouan and Moheli declared their independence, seceded from the country and formed their own governments. Since that time, the islands have been moving towards a rapprochement. A President was elected in 2004 and a return to relative stability has begun. However, while broad principles have been agreed upon, many of the details of the new federal legal system remain to be decided upon, and both Moheli and Anjouan continue to retain much of their autonomy, particularly with respect to their economies and banking sectors.

The new federal-level AML law is based on the French model. The main features of the law are that it: 1) requires financial and related records to be maintained for five years; 2) permits assets generated or related to money laundering activities to be frozen, seized and forfeited; 3) requires residents to declare all currency or financial instruments upon arrival and departure, and non-residents to declare all financial instruments upon arrival and all financial instruments above Comorian Francs 500,000 ($1,250) on departure; 4) permits provision and receipt of mutual legal assistance with another jurisdiction where a reciprocity agreement is in existence and confidentiality of financial records is respected; 5) requires non-bank financial institutions to meet the same customer identification standards and reporting requirements as banks; 6) requires banks, casinos and money exchangers to report unusual and suspicious transactions (by amount or origin) to the Central Bank and prohibits cash transactions over Comorian Frances 5 million ($12,500); and, 7) criminalizes the provision of material support to terrorists and terrorist organizations. There is no financial intelligence unit or comparable agency in existence in the country.

The autonomy of Anjouan and Moheli severely limits the ability of federal authorities to implement its AML laws within their jurisdictions. Although Moheli has its own AML law in effect (the Anti-Money Laundering Act of 2002), the law itself has some serious shortcomings and authorities lack the resources and expertise to enforce its provisions. For example, there is no absolute requirement to report large cash transactions. Comprehensive information on Anjouan's laws and regulations is difficult to obtain, but it does not appear that Anjouan has an AML law, or any legal requirement for offshore banks to maintain records or take any action when confronted with money laundering activities, be they suspected or confirmed. As is the case with Moheli, Anjouan also lacks resources and expertise to address money laundering and related financial crimes.

While the Comoros is not a principal financial center for the region, Moheli and Anjouan are attempting to develop an offshore financial services sector as a means to finance government expenditures. Both Moheli, pursuant to the International Bank Act of 2001, and Anjouan, pursuant to the Regulation of Banks and Comparable Establishments of 1999, license off-shore banks. Together, the islands have licensed more than 100 banks. Applicants for banking licenses in either jurisdiction are not required to appear in person to obtain their licenses. In Anjouan, only two documents (a copy of the applicant's passport and a certificate from a local police department certifying the lack of a criminal record) are required to obtain an offshore license and fax copies of these documents are acceptable. Even if additional information was to be required, it is doubtful that either jurisdiction has the ability or resources to authenticate and verify the information. Neither jurisdiction is capable, in terms of expertise or resources, of effectively regulating an offshore banking center. Anjouan, and probably Moheli as well, has delegated much of its authority to operate and regulate the offshore business to private, non-Comorian domiciled parties.

In addition to offshore banks, both Moheli, pursuant to the International Companies Act of 2001, and Anjouan, pursuant to Ordinance Number 1 of 1 March 1999, license insurance companies, internet casinos, and international business companies (IBC's)—Moheli alone claims to have licensed over 1200 IBC's. Bearer shares of IBC's are permitted under Moheli law. Anjouan also forms trusts, and registers aircraft and ships as well (without requiring an inspection of the aircraft or ship in Anjouan).

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

The Government of the Union of the Comoros (GOC) should harmonize anti-money legislation for the three islands that comprise the federal entity. A unified financial intelligence unit should be established and the unregulated offshore financial sectors in Moheli and Anjoulan should either be transferred to the federal level from the private sector or be shut down. In either case, bearer shares should be immobilized. The deficiencies in the anti-money laundering/terrorist financing regimes in the Comoros, and the GOC's inability to implement existing legislation make it vulnerable to traditional money laundering and to the financing of terrorism. Comoros should make every effort to comport to international standards. Comoros should criminalize the financing of terrorism.

Congo, Democratic Republic of

The Democratic Republic of the Congo (DRC) is not a regional financial center. However, its porous borders, lack of a well-regulated banking sector and a functional judicial system, and inadequate enforcement resources make it susceptible to money laundering. Smuggling is widespread throughout the DRC, and money laundering often involves the proceeds from illicit import/export activities and diamond sales. Money laundering also is prevalent in the money transfer agencies in the DRC and their associated exchange facilities. Most economic activity in the DRC takes place in the informal sector, estimated to be at least four times the size of the formal sector, with most transactions, even those of legitimate businesses, carried out in cash. Money laundering in the DRC is neither primarily nor significantly related to narcotics proceeds.

With the assistance of the World Bank, the Congolese Central Bank, and the IMF, the GDRC recently passed legislation criminalizing money laundering and terrorist financing. Banks and non-banking financial institutions are now required to report all transactions over $10,000. Banks find this requirement burdensome, as 90 percent of transactions using the banking system meet this threshold. There are no legal restrictions in the DRC prohibiting the sharing of financial account information with foreign entities. The President and courts have the legal authority to freeze the assets of terrorist organizations.

The DRC is in an ongoing effort to reform and restructure its banking system with the assistance of the IMF. Several insolvent banks have been liquidated. New computerized communications and accounting networks are to be installed that will make it easier to trace formal financial transactions.

The DRC has signed, but not yet ratified, both the 1999 International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. It has not signed the UN Convention against Transnational Organized Crime.

The Government of the Democratic Republic of the Congo (GDRC) should take steps to enforce the new legislation criminalizing money laundering and terrorist financing. It should become a party to the 1988 UN Drug Convention, the 1999 UN International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime

Congo, Republic of

The Republic of Congo (also called Congo-Brazzaville) is not a regional financial center. Neither drug trafficking nor money laundering is thought to be a problem. The Bank of Central African States (BEAC) supervises Congo's banking system, which is still recovering from the looting and neglect it received during Congo's civil unrest in the 1990s. BEAC is a regional Central Bank that serves six countries of Central Africa.

Congo-Brazzaville strengthened its laws against money laundering in 2003. As a member of the Central African Regional Monetary Union (CEMAC), it adopted CEMAC's new April 2003 regional regulations for prevention and repression of money laundering and financing of terrorism in central Africa. These rules establish penalties of both fines and imprisonment for money laundering and financing of terrorism. They also regulate the operations of banks, moneychangers and casinos.

Export and import of CFA franc bank notes, the regional currency, is prohibited outside the CFA franc zone. Travelers may not enter or leave the country with more than 1,000,000 FCFA ($1,980). In addition, Congo-Brazzaville requires that foreign transfer of more than 500,000 FCFA ($990) must receive the prior approval of banking regulators. In 2003, Congo-Brazzaville applied the anti-money laundering laws against Salu Humberto Brada, an export-import company accused of inappropriate micro-finance operations and charging excess interest. No money laundering cases were tried during 2004.

Congo-Brazzaville has bilateral extradition treaties with France, the Democratic Republic of Congo (Congo-Kinshasa) and Cuba. It is a party to the multilateral Antananarivo Convention on Matters of Justice of 1961. Congo-Brazzaville reported to the UN Security Council in 2003 that no inter-agency coordination mechanism existed to control drugs at the country's borders. That situation continued in 2004. In the same report, Congo-Brazzaville reported that it did have a national Committee against Criminality, a national Council of Security, and an Action Group against Money Laundering in Central Africa. Congo has signed, but not yet ratified, both the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

Congo should continue to work with the Central African Regional Monetary Union to strengthen its anti-money laundering and counterterrorist financing efforts in the region. Congo should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and to the UN Convention against Transnational Organized Crime.

Cook Islands

The Cook Islands is a self-governing parliamentary democracy in free association with New Zealand and a member of the British Commonwealth. Cook Islanders are citizens of New Zealand. By passing nine new legislative acts on May 7, 2003 and additional legislation in 2004, the Cook Islands authorities strengthened its anti-money laundering/counterfinancing (AML/CFT) legal and institutional framework.

The new laws remedy several of the deficiencies identified by the Financial Action Task Force's Non-Cooperative Countries and Territories initiative and the joint Asia/Pacific Group on Money Laundering/Offshore Group of Banking Supervisors (APG/OGBS) mutual evaluation report.

The Financial Transactions Reporting Act 2003 (FTRA 2003) imposes certain reporting obligations on financial and non-bank financial institutions such as banks, offshore banking businesses, offshore insurance businesses, casinos, and gambling services. Financial institutions are required to make currency transaction reports and suspicious transaction reports. Financial institutions are required to retain all records related to the opening of accounts and financial transactions for a minimum of six years. The records must include sufficient documentary evidence to prove the identity of the customer. In addition, financial institutions are required to develop and apply internal policies, procedures, and controls to combat money laundering, and to develop audit functions to evaluate such policies, procedures, and controls. Financial institutions must comply with any guidelines and training requirements issued under the FTRA 2003.

The Financial Transactions Reporting Act 2004 (FTRA) redefined obligations and procedures relating to customer identification, record keeping, internal controls and reporting of suspicious or other types of transactions. It also reorganized the supervisory structure, by allocating compliance checking functions for licensed entities to the Financial Supervisory Commission (FSC). The FTRA addresses confidentiality/secrecy of financial transactions, and provides authority that supersedes other related legislation in Sections 35 and 36. These sections compel financial institutions to comply with the reporting and other requirements of the FTRA, and to provide transaction information to the Cook Islands Financial Intelligence Unit (FIU), established under the law.

The FTRA mandates due diligence, ongoing monitoring of customers and transactions, suspicious activity reporting, development and maintenance of internal procedures for compliance, audit and record keeping. Furthermore, the FTRA establishes the supervision and authority of the FIU, including cooperation with supervisors, and provides for administrative and penal sanctions for noncompliance.

The FIU became legally established pursuant to Section 20 of the FTRA. With the assistance of a Government of New Zealand technical advisor, the FIU became fully operational. The FIU is the competent authority responsible for receiving, suspicious transaction reports (STRs). The FIU also receives currency transaction reports, as well as reports of telegraphic transfers over NZD$10,000. If the Financial Intelligence Unit (FIU), after analyzing these reports determines that a money laundering offense has been, or is being committed, the FIU must refer the matter to law enforcement for investigation. The 2003 FTRA also authorizes the FIU to request information from any law enforcement agency and supervisory body. The FIU is required to destroy a suspicious transaction report received or collected after six years since the receipt of the report, if there has not been activity or information relating to the report or the person named in the report. Covered institutions obligated to file STRs to the FIU are banks, insurers, financial advisors, bureaux de change, solicitors/attorneys,

accountants, financial regulators, casinos, lotteries, money remitters, and pawn shops. Administrative oversight is vested with the Minister of Finance, who appoints the Head of the FIU. FIU has the authority to require reporting parties to supplement reports, and has broad powers to obtain relevant information needed to combat money laundering and the financing of terrorism. The FIU does not have an investigative mandate.

The FIU has delegated responsibility for assessing AML compliance by licensed financial institutions to the FSC. The resulting reports and relevant documentation are to be provided to the FIU. However, the FIU retains responsibility for assessing compliance by non-licensed reporting institutions. In 2004, it did not conduct any on-site compliance visits, as it is still in the process of hiring a compliance officer and of identifying the non-licensed reporting institutions.

In May 2003 the Government enacted legislation to establish the Financial Supervisory Commission (FSC) as the sole regulator of the licensed financial sector. The FSC is empowered to license, regulate, and supervise the business of banking, and serves as the administrator of the legislation that regulates the offshore financial sector. Its policy is to seek to respond to requests from overseas counterparts to the utmost extent possible. The Board has also taken a broad interpretation of the concept of "counterpart," and does not need to establish general equivalence of function before being able to co-operate.

The only known request to the FSC in 2004 was a request from the New Zealand Securities Commission. The FSC advised the Securities Commission that, owing to the requirements of Cook Islands law, the information requested could be provided only if there were appropriate confidentiality arrangements in place. The Securities Commission developed confidentiality orders, advised the FSC of this in June 2004, and received the information sought in August 2004. The Securities Commission reports that it found the FSC willing to assist, and that it received all the information it sought.

The Cook Islands reporting requirements apply to all currency transaction reports (CTRs) of NZ$10,000 ($7,100) and above, electronic funds transfer reports (EFTR) of NZ$10,000 ($7,100) and above, as well as all suspicious transactions. Currency taken in and out of the Cook Islands in excess of NZ$10,000 must be reported, as well. The FIU received 14 STRs in 2004. In 2004, the FIU received 862 CTRs, 2,613 EFTRs, and 11 border currency reports (BCRs). To date, 30 of the 36 suspicious transaction reports have related to non-residents.

Under Sections 10 and 11 of the FTRA banks and a broad range of non-bank financial institutions are required to report telegraphic transfers above NZ$10,000 (approximately $7,100). CTRs must be filed when NZ$10,000 and above is transported over the border.

The domestic banking system is comprised of branches of two major Australian banks, and the local Bank of the Cook Islands (BCI). The latter is the result of a 2001 merger of the government-owned Cook Islands Development Bank and the Post Office Savings Bank. The primary business of the domestic banks operating in the Cook Islands is traditional deposit taking and lending. The BCI operates as a stand-alone institution competing against the two Australian banks, and is no longer engaged in development lending. Legislation allows for development lending to be undertaken in the future by a separate company not subject to supervision by the FSC. In addition, non-performing loans made by the Cook Islands Development Bank have been transferred to another affiliated company.

Licensing requirements, as set out in the legislation, are comprehensive. The Banking Act 2003 and a Prudential Statement on Licensing issued in February 2004 contain detailed licensing criteria for both locally incorporated and foreign banks, including "fit and proper" criteria for shareholders and officers, satisfactory risk management, accounting and management control systems, and minimum capital requirements. The Banking Act 2003 defines banking business, prohibits the unauthorized use of the word "bank" in a company name, and requires prior approval for changes in significant shareholding.

The Cook Islands has an offshore financial sector that licenses international banks and offshore insurance companies and registers international business companies. It also offers company services and trusts-particularly asset protection trusts that contain a "flee clause". Flee clauses state that if an inquiry is made by a foreign law enforcement agency regarding the trust, the trust will be automatically transferred to another jurisdiction.

The Banking Act 2003 and the Financial Supervisory Commission Act 2003 (FSCA 2003) established a new framework for licensing and prudential supervision of domestic and offshore financial institutions in the Cook Islands. The FSCA required all banks, onshore and offshore, to reapply for a license within 12 months of the commencement of the FSCA—May 2004. All offshore banks that had been licensed under the previous legislation were required to re-apply for an international banking license under the Banking Act 2003.

The effect of the legislation is to require offshore banks to have a tangible physical presence in the Cook Islands (the "mind and management" principle), transparent financial statements, and adequate records prepared in accordance with consistent accounting systems. All banks are subject to a vigorous and comprehensive regulatory process, including on-site examinations and supervision of activities on a consolidated basis. This physical presence requirement was intended to ensure that the Cook Islands would have no "shell banks" by June 2004.

Nine applications were received by the FSC for international banking licenses. Seven of the pre-existing banks decided not to re-apply. Two licenses were granted on May 28, 2004, and three on July 1, 2004. Four applications were declined: three on the grounds that the shareholders and/or directors were not fit and proper, and the fourth on the grounds that the ownership structure included bearer shares. One of the four banks refused a license appealed to the courts, and an interim injunction instructing the Commission to issue a license was granted. The FSC is challenging the decision, and is hopeful that the matter will be resolved by March 2005.

The FIU may, with the approval of Cabinet, enter into negotiations, orally or in writing, relating to an agreement or arrangement, with an institution or agency of a foreign state or an international organization. The Cabinet must approve final agreements or arrangements. In regard to disclosure of information to foreign agencies, the FIU may share information with foreign institutions or international organizations that have powers similar to the FIU after the signing of an information exchange agreement.

The GOCI is a party to the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. The Terrorism Suppression Act 2004 is based on the model law drafted by an expert group established under the auspices of the Pacific Islands Forum Secretariat. The Act criminalizes the commission and financing of terrorism.

The GOCI is a member of the Asia/Pacific Group on Money Laundering. The FIU became a member of the Egmont Group in June 2004, and has bilateral agreements allowing the exchange of financial intelligence with Australia. It is currently in negotiations with Thailand.

The United Nations (Security Council Resolutions) Bill is currently in Parliament. The Bill will allow the Cook Islands, by way of regulations, to give effect to the Security Council Resolutions concerning international peace and security. The GOCI is also finalizing regulations to give effect to UN Security Council Resolution 1373.

The Financial Action Task Force (FATF) placed the Cook Islands on its Non-Cooperative Countries and Territories (NCCT) list in 2000. In the interim, the Government of the Cook Islands has remedied the deficiencies of its anti-money laundering regime A FATF Review Group conducted an on-site visit in November 2004 to determine the effectiveness of those remedies. The Cook Islands should continue

to implement legislation designed to strengthen its nascent institutions and should maintain vigilant regulation of its offshore financial sector to ensure that it comports with international standards.