Costa Rica

Costa Rica is not a major financial center, but it remains vulnerable to money laundering and other financial crimes, due in part to narcotics trafficking in the region and the presence in Costa Rica of Internet gaming companies. Reforms to the Costa Rican counternarcotics law in 2002, which expand the scope of anti-money laundering regulations, also create a loophole by eliminating the government's licensing and supervision of casinos, jewelers, realtors, attorneys, and other non-bank financial institutions. Gambling is legal in Costa Rica, and there is no requirement that the currency used in Internet gaming operations be transferred to Costa Rica. Currently, over 200 sports book companies have registered to operate in Costa Rica. Many of these registered firms have the same owners and addresses.

In 2002, the Government of Costa Rica (GOCR) expanded the scope of Law 7786 via Law 8204. This expansion criminalizes the laundering of proceeds from all serious crimes. Law 8204 also obligates financial institutions and other businesses (such as money exchangers) to identify their clients, report currency transactions over $10,000, report suspicious transactions, keep financial records for at least five years, and identify the beneficial owners of accounts and funds involved in transactions. While Law 8204, in theory, covers the movement of all capital, current regulations based on 8204, Chapter IV, Article 14, apply a restrictive interpretation that covers only those entities which are involved in the transfer of funds as a primary business purpose. As stated earlier, the 2002 law does not cover casinos, jewelry dealers, or Internet gambling operations whose primary business is not the transfer of funds. New legislation/regulations are being drafted to close this loophole and may be enacted in 2005.

The formal banking industry in Costa Rica is tightly regulated. However, the offshore banking sector that offers banking, corporate, and trust formation services remains open and is an area of concern. Foreign-domiciled "offshore" banks can only conduct transactions under a service contract with a domestic bank, and they do not engage directly in financial operations in Costa Rica. In 2004, Costa Rican authorities implemented several measures to enhance supervision of offshore banks, but acknowledge that they are still unable to adequately assess risk. Due in part to the new controls, two offshore banks ceased operations in Costa Rica in 2004 and another is expected to close in 2005. Currently, six offshore banks maintain correspondent operations in Costa Rica, three from the Bahamas and three from Panama. The GOCR has supervision agreements with its counterparts in Panama and the Bahamas, permitting the review of correspondent banking operations. Unfortunately, these counterpart regulatory authorities occasionally interpret the agreements in ways that limit review by Costa Rican officials. Despite inadequate supervision of the offshore sector, Costa Rican authorities were able to rapidly and effectively trace money in the wake of high-level corruption scandals.

During 2004, the incidents of cash couriers depositing large sums of declared currency at private banks in Costa Rica virtually disappeared. Couriers appear to have reverted to smuggling cash, and the only four convictions in 2004 on money laundering charges involve undeclared currency (over $1.2 million) detected at airports or along the border. All four convictions have been appealed.

Costa Rica's Financial Intelligence Unit (FIU), the Centro de Inteligencia Conjunto Antidrogas/Unidad de Analisis Financiero (CICAD/UAF), became operational in 1998 and was admitted into the Egmont Group in 1999. Despite its committed and professional staff, the unit remains ill equipped and under-funded to handle its current caseload (over 200 cases) and to provide the information needed by investigators. Nevertheless, the unit developed evidence it considers formidable in four high-profile cases of money laundering during 2004. The cases have been referred for prosecution to the special prosecutor for financial crimes.

Costa Rican authorities cannot block, seize, or freeze property without prior judicial approval. Thus, Costa Rica lacks the ability to expeditiously freeze assets connected to terrorism. An interagency effort is underway to reduce the time required to obtain judicial approval.

The GOCR has ratified the major UN counterterrorism conventions. Additionally, a government task force drafted a comprehensive counterterrorism law with specific terrorist financing provisions in 2002. The draft law would expand existing conspiracy laws to include the financing of terrorism. It would also enhance existing narcotics laws by incorporating the prevention of terrorist financing into the mandate of the Costa Rican Drug Institute. In 2004, the Legislative Assembly also considered a separate draft terrorism law. GOCR officials are currently working to combine the two proposals in a way that will meet all of Costa Rica's international obligations, and they are hopeful the law will be enacted in early 2005.

Costa Rica 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. The GOCR has signed, but not yet ratified, the UN Convention against Corruption. The GOCR has also signed the OAS Inter-American Convention on Mutual Assistance in Criminal Matters, and is a member of the Caribbean Financial Action Task Force (CFATF) and the aforementioned Egmont Group.

The Government of Costa Rica should improve the supervision of its offshore banking sector and should extend its anti-money laundering regime to cover the Internet gaming sector, exchange houses, gem dealers, casinos and other non-bank financial institutions. Costa Rica also should pass counterterrorism and terrorist financing legislation. Greater attention should be given to the concerns of the FIU, so that it is able to adequately support the needs of law enforcement. Costa Rican authorities are aware of these deficiencies in Costa Rica's anti-money laundering regime, and should continue to address them in 2005, if the country is to build on the progress it has made in this area.

Côte d'Ivoire

Côte d'Ivoire has been an important regional financial center in West Africa. However, porous borders, an ongoing armed rebellion, and regional instability contribute to Côte d'Ivoire's current vulnerability to money laundering from narcotics-trafficking, fraud, corruption, and arms-trafficking. Criminal proceeds laundered in Côte d'Ivoire are reportedly derived mostly from regional criminal activity organized chiefly by nationals from Nigeria and the Democratic Republic of the Congo, but increasingly from Ivoirians and some Liberian nationals.

Economic and financial police have continued to notice an increase in financial crimes related to credit card theft and foreign bank account fraud, to include suspicious wire transfers of large sums of money involving mainly British, American, and French account holders through use of the Internet. A part of these funds consist of money solicited through West African advanced fee scams ("419 frauds"). The cross-border trade over Côte d'Ivoire's porous borders generates large amounts of contraband funds that are introduced into the banking system through informal or unregulated moneychangers.

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), all of which use the French-backed CFA franc currency: Benin, Burkina Faso, Guinea-Bissau, Côte d'Ivoire, Mali, Niger, Senegal, and Togo. All bank deposits over approximately $7,700 made in BCEAO member countries must be reported to the BCEAO, along with customer identification information. Côte d'Ivoire's economy accounts for 40 percent of the GDP of the WAEMU region. In September 2002, the WAEMU Council of Ministers, which oversees the BCEAO, approved an anti-money laundering regulation applicable to banks and other financial institutions, casinos, travel agencies, art dealers, gem

dealers, accountants, attorneys, and real estate agents. The regulation is subject to review by member countries, which would be responsible for implementing many provisions of the regulation.

Under the WAEMU regulation, financial institutions would be required to verify and record the identity of their customers before establishing any business relationship. The regulation would require financial institutions to maintain customer identification and transaction records for ten years. The regulation would also impose certain customer identification and record maintenance requirements on casinos. All financial institutions, businesses, and professionals under the scope of the WAEMU regulation would be required to report suspicious transactions. The regulation calls for each member country to establish a National Office for Financial Information Process (CENTIF), which would be responsible for collecting suspicious transactions and would have the authority to share information with other CENTIFs within the WAEMU as well as with the financial intelligence units of non-WAEMU countries.

The WAEMU Council of Ministers issued another directive in September 2002 requesting member countries to pass legislation requiring banks to freeze the accounts of any individuals or entities on the UNSCR 1267 Sanctions Committee's consolidated list. On September 17, 2004, the WAEMU Council of Ministers issued a directive to encourage member states to take necessary measures to hasten the adoption of legislation to enact the various WAEMU directives against money laundering and terrorist financing. For instance, Côte d'Ivoire does not yet have a specific law authorizing the identity, freezing and seizing of terrorist assets. However, while such a law was being prepared, legislative action on this and other measures was suspended due to the ongoing political crises. Until the political situation stabilizes and new legislation is in place, relevant measures and procedures by the BCEAO and their application by bankers and financial institutions must substitute for the deficiencies in Ivoirian legislation.

Laundering of money related to any criminal activity is a criminal offense. It applies to narcotics-related money laundering as well as to other fraudulent activities and corruption. Banks are required to maintain the records necessary to reconstruct significant transactions through financial institutions. Law enforcement authorities can access these records to investigate financial crimes upon the request of a public prosecutor. There are no mandatory time limits for keeping records. Côte d'Ivoire enacted a banking secrecy law in 1996 that prevents disclosure of client and ownership information, but it does allow the banks to provide information to the court in legal proceedings or criminal cases. Banks are required to adhere to "due diligence" standards.

Law 97/1997 regulates cross-border transport of currency. When traveling from Côte d'Ivoire to another WAEMU country, Ivorians and expatriate residents must declare the amount of currency being carried out of the country. When traveling from Côte d'Ivoire to a destination other than another WAEMU country, Ivorians and expatriate residents are prohibited from carrying an amount of currency greater than the equivalent of 500,000 CFA francs (approximately $1,000) for tourists, and two million CFA francs (approximately $4,000) for business operators. Carrying currency greater than those thresholds is only permissible with approval from the Department of External Finance of the Ministry of Economy and Finance. Even with governmental authorization, there is a cash limit of $4,000 for tourists and $5,500 for business. Any surplus must be in travelers or bank checks. However, due to the ongoing political crises, there has been a marked increase in cross-border migration from Côte d'Ivoire. Usually, migrating individuals carry out foreign currency that was exchanged on the black market. Given the porous borders, a large quantity of foreign currency is being recycled back into the region through informal channels. In 2004, police seized the equivalent of $1,300,000 in mixed foreign currency bound for Dubai, Hong Kong and Bangkok.

Under article 42 of the law No.90-589 of July 1990 on banking regulations, criminal assets may be frozen. Côte d'Ivoire's asset seizure and forfeiture law applies to both real and personal property, including bank accounts and businesses used as conduits for money laundering. The Government of

Côte d'Ivoire (GOCI) is the designated recipient of any narcotics-related asset seizures and forfeitures. The law does not allow for the sharing of assets with other governments. GOCI does not have a specific law against terrorist financing or authorizing the seizure and forfeiture of terrorist funds. The GOCI has, however, prepared draft counterterrorism finance legislation specifically targeting money laundering operations. The GOCI is also considering legislative proposals regarding the regulation of alternative remittance systems.

Côte d'Ivoire has demonstrated a willingness to cooperate with the U.S. in investigating financial or other crimes. For example, in one case from 2004, an American citizen was being defrauded by someone posing as a GOCI Customs Official requesting demurrage fees for a shipment of goods. With a short window of opportunity for action, the U.S. Embassy notified the Economic Police, who then instructed the Bank Examiner to monitor the suspect's account. The next morning, the Economic Police arrested a Nigerian who came in to retrieve the funds. Armed with a search warrant, the police searched the suspect's house, gathered evidence of a boiler-room operation, and arrested three other Nigerians. The funds ($15,000) were successfully wired back to the victim.

The GOCI has also continued to expand its regional cooperation on money laundering, working with other ECOWAS member nations on plans to establish, by early 2004, the organization's Intergovernmental Group for Action Against Money Laundering (GIABA). Côte d'Ivoire is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. Côte d'Ivoire has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

The Government of Côte d'Ivoire should criminalize terrorist financing and enact legislation allowing for the freezing and seizing of terrorist assets. It should ratify the UN Convention against Transnational Organized Crime.

Croatia

Croatia is neither a regional financial nor a money laundering center; tourism is the nation's most lucrative economic sector, serving 6.5 million people each year. Much of the money laundering that does occur is related to domestic financial crimes such as tax evasion, fraud from privatization schemes, and other business-related fraud. There has, however, been a recent rise in money laundering cases, with drug-trafficking via the "Balkan Route" into Western Europe as the predicate crime. The proceeds of regional narcotics-trafficking tend to be converted into real estate and luxury goods.

In 1996, the Government of Croatia (GOC) passed legislation that amended its penal code to criminalize money laundering in all forms related to serious crimes. Croatian law prohibits anonymous accounts. In 2000, Croatia's Parliament strengthened the country's penal code to ensure that all indicted individuals could be charged with the money laundering offense where applicable. Prior to this change, a person could not be charged with money laundering if the predicate offense carried a maximum penalty of fewer than five years in prison.

Croatia continued the development of its anti-money laundering regime throughout 2002 and 2003. In 2002, the Croatian Parliament enacted a variety of legislative acts related to the fight against money laundering. These laws include the Law on Penal Responsibility of Legal Persons, the Law on Suppression of Organized Crime and Corruption, the Law on Banks, and amendments to the Law on Legal Proceedings. In 2003, Parliament approved the new Law on the Prevention of Money Laundering (new LPML) that follows the European Union (EU) Directives. The new law also incorporates terrorism financing as well as drug smuggling and trafficking in persons, and requires that all cross-border transactions with cash or monetary instruments exceeding $6,500 be reported to Croatia's Financial Intelligence Unit (FIU).

In 1997, Croatia passed its Law on the Prevention of Money Laundering (LPML), requiring banks and non-bank financial institutions to report transactions that exceed approximately $30,000, as well as any cash transactions that seem suspicious. Aside from cash, the LPML also requires covered entities to report all transactions involving gold, precious metals, and stones, as well as other types of monetary instruments and financial paper. The new LPML expands the list of entities subject to reporting requirements to include lawyers and notaries.

Through its regulatory authority, the Ministry of Finance requires financial institutions to use specific software to facilitate compliance with reporting requirements. Cooperation with regulators is generally good, with major financial institutions readily cooperating with Croatian authorities. Money exchange houses are licensed and operate as outposts of banks, with rates tied to those offered by the banks.

The LPML also authorizes establishment of a FIU, the Ured za Sprjecavanje Pranja Novca (Anti-Money Laundering Department or AMLD), within the Ministry of Finance. Over its seven years of existence, the 17-member AMLD has investigated over 1,150 cases of suspicious transactions, nearly 500 of which have occurred since 2002, and forwarded 250 reports (130 since 2002 alone) on suspicious transactions (STRs) to the authorities; 40 of these reports went to foreign authorities. Between October 2003 and December 2004, the AMLD received approximately 3,000 STRs and opened 260 new analytical cases. Upon completion of analysis, the AMLD forwarded 70 of these cases to authorities for further investigation and action. AMLD has increased the number of STRs released to prosecutors within Croatia by 70 percent.

In 2001, the GOC established a National Center for the Prevention of Corruption and Organized Crime (USKOK) within the State Prosecutor's Office. This office has the authority to freeze assets, including securities and real estate, for up to a year. The office also has enhanced powers to seek financial transaction information and to coordinate the investigation of financial crimes. In October 2004, the Parliament revised the law governing USKOK's work. The revisions strengthen the tools USKOK can use to combat organized crime and grant USKOK jurisdiction to investigate narcotics-linked organized crime cases.

Croatia has a history of strict separation of operations. Responsibility for investigating financial crimes remains divided between the police, prosecutor's office, and ministry of finance. In an effort to strengthen domestic inter-agency cooperation and information sharing, the Ministry of Finance is currently negotiating memoranda of understanding (MOUs) with the Central Bank, the Securities and Exchange Commission, the pension fund supervisory body, and the insurance industry regulatory body.

Despite the GOC's efforts, there were only a small number of arrests and prosecutions for money laundering or terrorism financing during 2004. During 2004, the Croatian police conducted a total of five money laundering investigations (two of which involved narcotics-related offenses). In 2003, one of four money laundering investigations was drug related. To date, the GOC has succeeded in obtaining three convictions for money laundering. Weak interagency cooperation, inadequate technical skills of the police and prosecutors when analyzing and dealing with complex financial crimes, and a general lack of knowledge among members of the banking community as to what exactly constitutes a money laundering offense are all factors that impede Croatia's anti-money laundering efforts. The judicial backlog of 1.4 million cases, understaffing and severe resource constraints also are deterrents to effective prosecution of all criminal cases, including money laundering cases.

Although Croatian investigators have the authority to temporarily seize property in the course of an investigation, asset seizure legislation needs strengthening. Croatian legislation provides that, with regard to asset seizure, the burden falls on the state to prove that the property of a criminal was purchased with illegal proceeds. There is no civil asset forfeiture provision in Croatian law. Therefore, it is extremely difficult to seize the assets of those who are not directly involved in the street-level work of organized crime. An interagency working group headed by the Ministry of Internal Affairs

and funded by the EU is looking at the issue of establishing a more reasonable burden of proof for asset seizures.

In 2003, the AMLD worked with authorities in an EU country to block $3 million in suspected criminal proceeds. Despite the fact that there is also no specific legislation regulating the sharing of seized assets with foreign governments, Croatian officials advise that, under existing law, judges do have the power to authorize asset sharing with another country.

Croatia has criminalized terrorist financing. In addition, Croatia made various changes in the criminal code during 2003 to provide for implementation of the UN Convention Against Corruption and the International Convention for the Suppression of the Financing of Terrorism. Croatia has established an inter-ministerial body to evaluate and improve the country's counterterrorism regime. It also circulates throughout its financial system all international lists of designated individuals and entities. Authorities have the right to identify and, with a court order, to freeze and seize terrorist finance assets. Law enforcement authorities are able to move quickly to seek the required court order to freeze suspect accounts and assets of those individuals or organizations named by the UNSCR 1267 Sanctions Committee. In fact, Croatian law enforcement officials have greater authority to freeze assets linked to individuals and entities included in UNSCRs 1267, 1333, and 1390.

The AMLD has the authority to freeze assets and can do so with relatively little difficulty for an initial 72-hour period. However, obtaining an extension of the initial 72-hour period is more complicated, with the Prosecutor's Office requiring either an international instrument or a formal legal request for an asset freeze. Therefore, if assets identified by authorities do not relate to an individual or entity cited by the UN, it is very difficult for the Prosecutor's Office to obtain a long term legal freeze. In May 2003, after its own investigation dovetailed with its investigation of individuals on the UN-distributed terrorist lists, and in the environment of the related UN Resolutions, AMLD recommended the freezing of two accounts. The Croatian judiciary agreed and froze the accounts, which allegedly were being used to funnel funds through Croatia to neighboring Bosnia and Herzegovina, and ultimately used to fund al-Qaida activities. During 2004, the AMLD received three STRs related to possible terrorist financing activity, and to date has frozen funds in four cases associated with terrorist financing.

In the international arena, the AMLD cooperates fully with foreign FIUs. Croatia does not have limitations on exchanging information with international law enforcement on money laundering investigations. Croatia actively cooperates with its Balkan neighbors in the law enforcement arena, especially in the fight against money laundering, where Croatia worked to establish a regional working group to address the issue. This working group meets twice yearly. Croatia is party to a number of bilateral agreements on law enforcement cooperation with its neighbors, as well as the Southeastern Europe Cooperative Initiative's Agreement to Prevent and Combat Trans-border Crime.

In addition, Croatia is working in concert with Bosnia and Herzegovina to stem cross-border money laundering and smuggling. The joint efforts include the participation by authorities from both countries as well as the use of new technology and computer programs developed specifically for this purpose. With a thousand-mile border between the two countries, and numerous loopholes caused by the jurisdictional irregularities throughout Bosnia and Herzegovina, this is one of Croatia's most important projects.

In the fall of 2004, Croatia's chief State Prosecutor initiated discussions with his counterparts in neighboring countries toward signing bilateral agreements to facilitate cross-border criminal prosecutions. In December 2004, Croatia joined 11 other regional prosecutors in signing a memorandum of understanding to work jointly to fight organized crime. Croatia also participates as a member in the EU's Community Assistance for Reconstruction, Development, and Assistance (CARDS) Program, which seeks to assist countries of the Western Balkans to achieve a greater level of EU integration. As part of the CARDS Program, in 2005 Croatia expects to sign a multilateral

memorandum of understanding among the FIUs of Albania, Bosnia and Herzegovina, Serbia, Montenegro, and Macedonia.

Croatia has also intensified its cooperation with Austria, Germany, Italy, and Slovenia regarding border control and crime. As a member of the Council of Europe's Select Committee of Experts (MONEYVAL), Croatia has participated in mutual evaluations with the other members, both by being evaluated, and by sending experts to evaluate the progress of other member states. Regionally, Croatia has assisted and supported the creation of anti-money laundering legislation and the establishment of FIUs in Albania, Macedonia, Serbia, and Bosnia and Herzegovina. Croatia is also an active member of the Egmont Group.

The 1902 extradition treaty between the Kingdom of Serbia and the United States remains in force and applies to present-day extradition between Croatia and the United States. However, according to the Croatian Constitution, citizens of Croatia may not be extradited, except to The Hague for the War Crimes Tribunal.

Croatia is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. In December 2003, the GOC signed, but has not yet ratified, the UN Convention against Corruption. Croatia also is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; and the Convention on Transnational Organized Crime. In June 2003, Croatia signed the European Convention on the Transfer of Proceedings in Criminal Matters.

The Government of Croatia should work to improve interagency cooperation on money laundering matters. Croatia should provide training to improve the technical skills of police investigators, prosecutors, and judges to enable them to deal with complex financial crimes so that money laundering and terrorist financing cases can be successfully prosecuted. Croatia should improve its asset forfeiture regime to enable the freezing and seizing of assets in an efficient and timely manner and continue its important leadership role within the Egmont Group.

Cuba

The Department of State has designated Cuba as a State Sponsor of Terrorism. Cuba is not an international financial center. The Government of Cuba (GOC) controls all financial institutions, and neither of Cuba's dual peso currencies is freely convertible. No significant changes are noted for 2004.

The GOC is not known to have prosecuted any money laundering cases since the National Assembly passed legislation in 1999 that criminalized money laundering related to trafficking in drugs, arms, or persons. The Cuban Central Bank has issued regulations that encourage banks to identify their customers, investigate unusual transactions, and identify the source of funds for large transactions. Cuba also has cross-border currency reporting requirements. Cuba has solicited anti-money laundering training assistance from the United Kingdom, Canada, France, and Spain.

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

Cuba criminalized terrorist financing in a 2001 law against terrorist acts.

The Government of Cuba should ensure its prosecutors and judges have received sufficient training to enable the successful prosecution of money laundering cases.

Cyprus

Cyprus has been divided since the Turkish military intervention of 1974, following a coup d'etat directed from Greece. Since then, the southern part of the country has been under the control of the Government of the Republic of Cyprus. The northern part is controlled by a Turkish Cypriot administration that in 1983 proclaimed itself the "Turkish Republic of Northern Cyprus." The U.S. Government recognizes only the Government of the Republic of Cyprus.

Republic of Cyprus. The Republic of Cyprus is a major regional financial center with a robust financial services industry, both domestic and offshore, which contributes about 6.1 percent of the country's gross domestic product. Like other such centers, it remains vulnerable to international money laundering activities. Fraud and, to some extent, narcotics-trafficking are the major sources of illicit proceeds laundered in Cyprus. Casinos, Internet gaming sites, and bearer shares are not permitted in the Government of Cyprus (GOC)-controlled area of Cyprus.

The development of the offshore financial sector in Cyprus has been facilitated by the island's central location, a preferential tax regime, double tax treaties with 33 countries (including Eastern European and former Soviet Union nations), a labor force particularly well trained in legal and accounting skills, a sophisticated telecommunications infrastructure, and relatively liberal immigration and visa requirements. In July 2002, Cyprus introduced a major amendment to its tax laws resulting in a uniform tax rate of 10 percent for all enterprises in Cyprus, irrespective of the permanent residence of their owners. As of January 1, 2003, the so-called "ring fencing" of business enterprises and banks, owned by non-residents has been abolished. As a result, there is reportedly no longer any distinction between local companies and offshore international business companies (IBCs). Both the prohibition from doing business locally and the preferential tax treatment that distinguished IBCs from local companies have been abolished. The tax revision includes a grandfather clause, allowing existing IBCs to opt to maintain their former tax status of 4.25 percent for a transitional period until the end of 2005. The Cypriots state the distinction between domestic companies and IBCs will cease entirely on January 1, 2006, when the transition period expires, effectively ending the offshore IBC sector in Cyprus.

Similar provisions were introduced for offshore International Banking Units (IBUs), branches or subsidiary companies of established foreign banks, which had cumulative assets of $9.8 million at the end of 2004. According to the GOC, as with IBCs the distinction between domestic banks and IBUs will cease on January 1, 2006 once the transition period expires. The only exception is that IBUs will still be prohibited from offering any banking services whatsoever in Cyprus Pounds to either residents or non-residents. As with IBCs, IBUs established before 2002 have the option of maintaining their preferential tax rate of 4.25 percent until the end of 2005. IBUs are also prohibited from providing other foreign currency services and accepting deposits from residents of Cyprus until January 1, 2006, unless they agree to be immediately subject to the standard 10 percent tax rate. In the meantime, IBUs are required to adhere to the same legal, administrative, and reporting requirements as domestic banks. The Central Bank requires prospective IBUs to face a detailed vetting procedure to ensure that only banks from jurisdictions with proper supervision are allowed to operate in Cyprus. IBUs must have a physical presence in Cyprus and cannot be shell banks. Once an IBU has registered in Cyprus, it is subject to a yearly on-site inspection by the Central Bank. The GOC-controlled area of Cyprus hosts 12 domestic banks, and 26 IBUs.

Since May 2004, when Cyprus joined the European Union (EU), banks licensed by competent authorities in EU countries may establish branches in Cyprus or provide banking services on a cross-border basis without obtaining a license from the Central Bank of Cyprus, under the EU's "single passport" principle. By the end of 2004, three EU banks that had already been operating as IBUs had elected to continue their presence in Cyprus under the "single passport" arrangement.

Over the past nine years, Cyprus has put in place a comprehensive anti-money laundering legal framework that comports with international standards. The GOC continues to revise these laws to meet evolving international standards. In 1996, the GOC passed the Prevention and Suppression of Money Laundering Activities Law. This law criminalizes both drug and non-drug-related money laundering, provides for the confiscation of proceeds from serious crimes, codifies actions that banks and non-bank financial institutions must take (including customer identification), and mandates the establishment of a Financial Intelligence Unit (FIU). The anti-money laundering law authorizes criminal (but not civil) seizure and forfeiture of assets. Subsequent amendments to the 1996 law broadened its scope by eliminating the separate list of predicate offenses (now defined as any criminal offense punishable by a prison term exceeding one year), addressing government corruption, and facilitating the exchange of financial information with other FIUs, as well as the sharing of assets with other governments. A law passed in 1999 criminalizes counterfeiting bank instruments, such as certificates of deposit and notes.

Amendments passed in 2003 and 2004 implement the EU's Second Money Laundering Directive. These amendments authorize the FIU to instruct banks to delay or prevent execution of customers' payment orders; extend due diligence and reporting requirement to auditors, tax advisors, accountants, and, in certain cases, attorneys, real estate agents, and dealers in precious stones and gems; permit administrative fines of up to $6,390; and increase bank due diligence obligations concerning suspicious transactions and customer identification requirements, subject to supervisory exceptions for specified financial institutions in countries with equivalent requirements.

Also in 2003, the GOC enacted new legislation regulating capital and bullion movements and foreign currency transactions. The new law requires all persons entering or leaving Cyprus to declare currency (whether local or foreign) or gold bullion worth $15,500 or more. This sum is subject to revision by the Central Bank. This law replaces exchange control restrictions under the Exchange Control Law, which expired on May 1, 2004.

The supervisory authorities for the financial sector are the Central Bank of Cyprus, the Securities Commission of the Stock Exchange, the Superintendent of Insurance, the Superintendent of Cooperative Banks, the Councils of the Bar Association and the Institute of Certified Public Accountants. The supervisory authorities may impose administrative sanctions if the legal entities or persons they supervise fail to meet their obligations as prescribed in Cyprus's anti-money laundering laws and regulations.

All banks must report to the Central Bank, on a monthly basis, individual cash deposits exceeding $21,200 in local currency or $10,000 in foreign currency. Bank employees currently are required to report all suspicious transactions to the bank's compliance officer, who determines whether to forward the report to the Unit for Combating Money Laundering (MOKAS), the Cypriot FIU, for investigation. Banks retain reports not forwarded to MOKAS, and these are audited by the Central Bank as part of its regular on-site examinations. Banks must file monthly reports with the Central Bank indicating the total number of suspicious activity reports (SARs) submitted to the compliance officer, and the number forwarded by the compliance officer to MOKAS. By law, bank officials may be held personally liable if their institutions launder money. Cypriot law protects reporting individuals with respect to their cooperation with law enforcement. Banks must retain transaction records for five years.

In 2001, the Central Bank issued rules requiring banks to ascertain the identities of the natural persons who are the "principal/ultimate" beneficial owners of new corporate or trust accounts. This rule was extended to existing accounts in 2002. In 2003, the Central Bank issued new rules that require all banks to obtain as quickly as possible identification data on the natural persons who are the "principal/ultimate" beneficial owners when certain events occur, including an unusual or significant transaction or change in account activity; a material change in the business name, officers, directors

and trustees, or business activities of commercial account holders; or a material change in the customer relationship, such as establishment of new accounts or services or a change in the authorized signatories. Banks must also adhere to the Basel Committee on Banking Supervision's October 2001 paper titled "Customer Due Diligence for Banks."

In January 2003 the Central Bank issued a guidance note requiring banks to pay special attention to business relationships and transactions involving persons from jurisdictions identified by the Financial Action Task Force (FATF) as non-cooperative. This list is updated regularly in line with the changes effected to the non-cooperative list by the FATF.

In November 2004, the Central Bank issued a revised money laundering guidance note that places several significant new obligations on banks, including requirements to develop a customer acceptance policy; renew customers' identification data on a regular basis; construct customers' business profiles; install computerized risk management systems in order to verify whether a customer constitutes a "politically exposed person"; provide full details on any customer sending an electronic transfer in excess of $1,000; and implement (by June 5, 2005) adequate management information systems for on-line monitoring of customers' accounts and transactions. Cypriot banks reportedly have responded by adopting dedicated electronic risk management systems, which they typically use to target transactions to and from high-risk countries. Cyprus's Exchange Control Law expired on May 1, 2004, ending Central Bank review of foreign investment applications for non-EU residents. Individuals wishing to invest on the island now apply through the Ministry of Finance. The Ministry also supervises collective investment schemes.

The Central Bank also requires compliance officers to file an annual report outlining measures taken to prevent money laundering and to comply with its guidance notes and relevant laws. In addition to the Central Bank's routine compliance reviews, MOKAS is now authorized to conduct unannounced inspections of bank compliance records. MOKAS also maintains an active outreach and education program targeted at compliance officers, lawyers and accountants. In July 2002, the U.S. Internal Revenue Service (IRS) officially approved Cyprus's "know-your-customer" rules, which form the basic part of Cyprus' anti-money laundering system. As a result of the above approval, banks in Cyprus that may be acquiring United States securities on behalf of their customers are eligible to enter into a "withholding agreement" with the IRS and become qualified intermediaries.

MOKAS, the Cypriot FIU, was established in 1997. A representative of the Attorney General's Office heads the unit and its 20-member staff includes 14 full-time personnel, three part-time police officers, and three part-time Customs officers. However, MOKAS staffing is not sufficient to allow it to meet all its responsibilities. Plans to hire eight additional full-time employees have consistently been put on hold due to GOC-wide hiring freezes. MOKAS cooperates closely with FinCEN and other U.S. Government agencies in money laundering investigations.

All banks and non-bank financial institutions-insurance companies, the stock exchange, cooperative banks, lawyers, accountants, and other financial intermediaries-must report suspicious transactions to MOKAS. Sustained efforts by the Central Bank and MOKAS to strengthen reporting have resulted in an increase in the number of SARs being filed from 25 in 2000 to 123 in 2004. During 2004 MOKAS received 156 information requests from foreign FIUs, other foreign authorities, and INTERPOL. Two of the information requests were related to terrorism. MOKAS evaluates evidence generated by its member organizations and other sources to determine if an investigation is necessary. It has the power to suspend financial transactions for up to 24 hours. MOKAS also has the power to apply for freezing or restraint orders affecting any kind of property, at a very preliminary stage of an investigation. MOKAS conducts anti-money laundering training for Cypriot police officers, bankers, accountants, and other financial professionals. Training for bankers is conducted in conjunction with the Central Bank of Cyprus Since late 2003, the MOKAS computer network has been connected with that of the central government, thus giving MOKAS direct access to other GOC agencies and ministries.

During 2004, MOKAS opened 299 cases and closed 123. During the same period, it issued 16 Information Disclosure Orders and seven freezing orders, resulting in the freezing of $1,964,450 in bank accounts and four pieces of real estate. Additionally, during 2004, MOKAS issued four confiscation orders for the total amount of $2,461,000. Government actions to seize and forfeit assets have not been politically or publicly controversial, nor have there been retaliatory actions related to money laundering investigations, cooperation with the United States, or seizure of assets. There have been at least ten convictions recorded under the 1996 Anti-Money Laundering law, and a number of other cases are pending.

Cyprus has implemented the FATF's Special Recommendations on Terrorist Financing. On November 30, 2001, Cyprus became a party to the UN International Convention for the Suppression of the Financing of Terrorism. The implementing legislation amended the anti-money laundering law to criminalize the financing of terrorism. In November 2004, MOKAS designated two employees to be responsible for terrorist finance issues. MOKAS routinely asks banks to check their records for any transactions by any person or organization designated by foreign FIUs as a terrorist or a terrorist organization. If a person or entity is so designated by the UNSCR 1267 Sanctions Committee or the EU Clearinghouse, the Central Bank automatically issues a "search and freeze" order to all banks, both domestic and IBUs. As of mid-December 2004, no bank had reported holding a matching account. The lawyers' and accountants' associations cooperate closely with the Central Bank. The GOC cooperates with the United States to investigate terrorist financing.

There is no evidence that alternative remittance systems such as hawala or black market exchanges are operating in Cyprus. The GOC believes that its existing legal structure is adequate to address money laundering through such alternative systems. The GOC licenses charitable organizations, which must file with the GOC copies of their organizing documents and annual statements of account. Reportedly, the majority of all charities registered in Cyprus are domestic organizations.

Cyprus is a party to the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. Cyprus is a member of the Council of Europe's MONEYVAL, and the Offshore Group of Banking Supervisors. MOKAS is a member of the Egmont Group and has signed memoranda of understanding (MOUs) with the FIUs of Belgium, France, the Czech Republic, Slovenia, Malta, Ireland, Australia, Ukraine, Poland, Canada, Russia, and Israel. Although Cypriot law specifically allows MOKAS to share information with other FIUs without benefit of an MOU, Cyprus is negotiating MOUs with the United States, Venezuela, Bulgaria, Italy, and Romania. A Mutual Legal Assistance Treaty between Cyprus and the United States entered into force September 18, 2002. In 1997, the GOC entered into a bilateral agreement with Belgium for the exchange of information on money laundering. Cyprus is scheduled to undergo a MONEYVAL mutual evaluation in April 2005.

The Government of the Republic of Cyprus has put in place a comprehensive anti-money laundering regime. It should continue to take steps to tighten implementation of its laws. In particular, it should ensure that regulation of charitable and nonprofit entities is adequate. Cyprus should enact provisions that allow for civil forfeiture of assets.

North Cyprus ("Turkish Republic of Northern Cyprus"). It is more difficult to evaluate anti-money laundering efforts in the self-proclaimed "Turkish Republic of Northern Cyprus" ("TRNC"), but there continues to be evidence of trade in narcotics with Turkey and Britain, as well as of money laundering activities. "TRNC" officials believe the 22 essentially unregulated, and primarily Turkish-mainland owned, casinos are the primary vehicles through which money laundering occurs. Casino licenses are fairly easy to obtain, and no background checks are done on applicants. Funds generated by these casinos are reportedly transported directly to Turkey without entering the "TRNC" banking system, and there are few safeguards to prevent the large-scale transfer of cash from the "TRNC" to Turkey. Another area of concern is the 500 "finance institutions" operating in the "TRNC" that extend credit and give loans. Although they must register with the "Office of the Registrar of Companies"

they are unregulated. Some are owned by banks and others by auto dealers. The fact the "TRNC" is recognized only by Turkey limits the ability of "TRNC" officials to receive training or funding from international organizations with experience in combating money laundering.

The offshore banking sector also remains a concern. In August 2004, the U.S. Department of the Treasury's FinCEN issued a notice of proposed rulemaking to impose a special measure against First Merchant Bank OSH Ltd in the "TRNC" as a financial institution of primary money laundering concern. Pursuant to Section 311 of the USA PATRIOT Act, FinCEN found First Merchant Bank to be of primary money laundering concern based on a number of factors, including: (1) It is licensed as an offshore bank in the "TRNC", a jurisdiction with inadequate anti-money laundering controls, particularly those applicable to its offshore sector; (2) it is involved in the marketing and sale of fraudulent financial products and services; (3) it has been used as a conduit for the laundering of fraudulently obtained funds; and (4) the individuals who own, control, and operate First Merchant Bank have links with organized crime and apparently have used First Merchant Bank to launder criminal proceeds. As a result of the finding and in consultation with federal regulators and the Departments of Justice and State, FinCEN proposed imposition of the special measure that would prohibit the opening or maintaining of correspondent or payable-through accounts by any domestic financial institution or domestic financial agency for, or on behalf of First Merchant Bank OSH Ltd.

In 1999, a money laundering law for northern Cyprus went into effect with the stated aim of reducing the number of cash transactions in the "TRNC" as well as improving the tracking of any transactions above $10,000. Banks are required to report to the "Central Bank" any electronic transfers of funds in excess of $100,000. Such reports must include information identifying the person transferring the money, the source of the money, and its destination. Banks, non-bank financial institutions, and foreign exchange dealers must report all currency transactions over $20,000, and suspicious transactions in any amount. Banks must follow a know-your-customer policy and require customer identification. Banks must also submit suspicious transactions to a central multi-agency committee that is supposed to function as a quasi-FIU and have investigative powers. The five-member committee is composed of representatives of the police, customs, the "Central Bank," and the "Ministry of the Economy and Tourism." However, the 1999 anti-money laundering law has never been fully implemented or enforced. Furthermore, very few suspicious transaction reports have been filed since the inception of the law and the "Anti-Money Laundering Committee" has been largely inactive. There are currently 26 domestic banks in the "TRNC". Internet banking is available.

Although the 1999 "TRNC" law prohibits individuals' entering or leaving the "TRNC" from transporting more than $10,000 in currency, "Central Bank" officials note that this law is difficult to enforce, given the large volume of travelers between Turkey and the "TRNC". In 2003, the "TRNC" relaxed restrictions that limited travel across the UN-patrolled buffer zone. As a result, an informal currency exchange market is developing, principally to convert Cypriot pounds into U.S. dollars.

The "Ministry of Economy and Tourism" has drafted a new anti-money laundering law that it says will, among other things, better regulate casinos, currency exchange houses, and both onshore and offshore banks. A "TRNC" official stated that the "TRNC" wants to ensure the draft law meets international standards.

The offshore sector consists of 21 banks and approximately 50 IBCs. The offshore banks may not conduct business with "TRNC" residents and may not deal in cash. The offshore entities are audited by the "Central Bank" and are required to submit a yearly report on their activities. However, the "Central Bank" has no regulatory authority over the offshore banks and can neither grant nor revoke licenses. Instead, the "Ministry of the Economy" performs this function, which leaves the process open to politicization and possible corruption. Although a proposed new law would have restricted the granting of new bank licenses to only those banks already having licensees in an OECD country, the law never passed.

In spite of a growing awareness in the "TRNC" of the danger represented by money laundering, it is clear that "TRNC" regulations fail to provide effective protection against the risk of money laundering. The 1999 law does provide better banking regulations than were previously in force, but it is still not adequate. The major weakness continues to be the "TRNC's" many casinos, where a lack of resources and expertise leave that area, for all intents and purposes, unregulated, and therefore especially vulnerable to money laundering abuse. The "TRNC" should move quickly to enact a new anti-money laundering law and to tighten regulation of its casinos, money exchange houses, and offshore sector.

Czech Republic

Both geographic and economic factors render the Czech Republic vulnerable to money laundering. Narcotics-trafficking, smuggling, auto theft, arms trafficking, tax fraud, embezzlement, racketeering, and trafficking in persons are the major sources of funds that are laundered in the Czech Republic. Domestic and foreign organized crime groups target Czech financial institutions for laundering activity. Banks, currency exchanges, casinos and other gaming establishments, investment companies, and real estate agencies have all been used to launder criminal proceeds.

Money laundering was technically criminalized in September 1995 through additions to the Czech Criminal Code. Although the Criminal Code does not explicitly mention money laundering, its provisions apply to financial transactions involving the proceeds of all serious crimes. A July 2002, amendment to the Criminal Code introduces a new, independent offense called "Legalization of Proceeds from Crime." This offense has a wider scope than previous provisions in that it enables prosecution for laundering one's own illegal proceeds. Also in July 2002, the legalization of proceeds from all serious criminal activity became punishable by five to eight years imprisonment.

The Czech anti-money laundering legislation (Act No. 61/1996, Measures Against Legalization of Proceeds from Criminal Activity) became effective in July 1996. A 2000 amendment to the money laundering law requires a wide range of financial institutions to report all suspicious transactions to the Czech Republic's Financial Intelligence Unit (FIU), known as the Financial Analytical Unit (FAU) of the Ministry of Finance. In September 2004, the latest amendments to the money laundering law came into force. The amendments introduce several major changes to the Czech Republic's money laundering laws and harmonize the nation's legislation with the requirements of the European Union's (EU) Second Money Laundering Directive. As a result, the list of covered institutions now includes attorneys, casinos, realtors, notaries, accountants, tax auditors, and entrepreneurs engaging in transactions exceeding 15,000 euros. In addition to reporting all suspicious transactions possibly linked to money laundering, covered institutions are now required to report all transactions suspected of being tied to terrorist financing.

For years, the Czech Republic had been criticized for allowing anonymous passbook accounts to exist within the banking system. Legislation adopted in 2000 prohibits new anonymous passbook accounts. In 2002, the Act on Banks was amended to abolish all existing bearer passbooks by December 31, 2002, and by June 2003 approximately 400 million euros had been converted. While account holders can still withdraw money from the accounts for the next decade, the accounts do not earn interest and cannot accept deposits. In 2003 the Czech National Bank introduced new "know your customer" measures, based on the recommendations of the Basel Committee, and created an on-site inspector team. New due diligence provisions became effective in January 2003. The Czech Government is considering placing a limit of 500,000 Czech crowns, or approximately $19,250, on the amount of cash that can change hands in cash transactions.

The FAU is an administrative FIU without law enforcement authority. One of the FAU's primary purposes is the identification of tax evasion. The 2004 amendments to the Anti-Money Laundering Act also extend the anti-money laundering/counterterrorist financing responsibilities of the FAU. To

fulfill these additional responsibilities, the new legislation provides for an increase in the number of FAU staff. The FAU will also be authorized to share all information with the Czech Intelligence Service (BIS) and Czech National Security Bureau (NBU). It is hoped that this type of information sharing will improve the timeliness and nature of exchanges between the different agencies within the Czech government.

The number of suspicious transaction reports transmitted to the FAU has increased significantly, while the number of reports evaluated and forwarded to law enforcement remains unchanged. This is interpreted as evidence of the active participation of mandated entities in the anti-money laundering regime. After clarifications to the reporting requirements in 1996, reporting of unusual transactions rose significantly. In 2002, 1,260 suspicious transactions were reported, 1,970 in 2003, and 3267 in 2004; 85 percent of these reports came from the formal banking sector. The number of reports forwarded to the police remained steady at 115 in 2002 and 114 in 2003. In 2004, the number dropped slightly to 103. Every case that was passed to law enforcement was investigated.

In July 2004, a new specialized police unit called the Financial Police (known also as Illegal Proceeds and Tax Crime Unit) was established. The Department of Criminal Proceeds and Money Laundering, which used to be part of the unit fighting organized crime, became a part of the newly established Financial Police. It is still the main law enforcement counterpart to FAU, a partnership which has led to the first formal charges on money laundering. In 2004, the Department of Criminal Proceeds and Money Laundering investigated 139 cases and secured assets valued at roughly $90,000. This figure is an increase over 2003 when police investigated 113 cases and secured approximately $29,000. In 2004 the Department participated in 25 cases investigated by the Czech National Drug Headquarters and secured assets valued at $700,000, as compared to 2003, when 23 cases related to drug crimes were investigated and the department succeeded in securing assets valued at $7,250,000.

Prior to 2004, the Czech Republic had not yet had a successful prosecution in a money laundering case. However, during the first half of 2004, Ministry of Justice statistics show that prosecutors were able to obtain the first two money laundering convictions. Four people were prosecuted; three were actually accused. One case was suspended and the only penalties imposed were a suspended sentence and a fine. In 2003, there were 36 money laundering cases; five were suspended. There were no resulting convictions in 2003. One ongoing issue is that law enforcement must prove that the assets in question were derived from criminal activity. The accused is not obligated to prove that the property or assets were acquired legitimately.

The Czechs have specific laws criminalizing terrorist financing and have legislation permitting rapid implementation of UN and EU financial sanctions, including action against accounts held by suspected terrorist entities or individuals. The Czech Government approved the National Action Plan of the Fight Against Terrorism in April 2002. This document covers topics ranging from police work and cooperation to protection of security interests, enhancement of security standards and customs issues. The latest amendment of the Criminal Code, that came into force in November 2004, adds new definitions for terrorist attacks and for terrorist financing. A penalty of up to 15 years imprisonment can be imposed on those who support terrorists financially, materially or with other means.

A new government body called the Clearinghouse was instituted in October 2002. It was established under the FAU, and functions to streamline input from institutions in order to enhance cooperation and response to a terrorist threat. The FAU is currently distributing lists of designated terrorists to relevant financial and governmental bodies. Czech authorities have been cooperative in the global effort to identify suspect terrorist accounts. Since September 11, 2001, the FAU has checked the accounts of approximately 1,000 people. The 2000 amendment to the anti-money laundering law requires financial institutions to freeze assets that belong to subjects named on lists issued by the UN 1267 Sanctions Committee. To date, no suspect accounts have been identified in Czech financial institutions and no terrorist assets have been confiscated.

A May 2001 revision of the Criminal Code facilitates the seizure and forfeiture of bank accounts. A financial institution that reports a suspicious transaction has the authority to freeze that suspect account for up to 24 hours. However, for investigative purposes, this time limit can be extended to 72 hours in order to give the FAU sufficient time to investigate whether or not there is evidence of criminal activity. Currently, the FAU is authorized to freeze accounts for 72 hours. However, the FAU's efforts can be hampered because it often waits for the annual tax submission of suspected individuals before deciding to forward cases to law enforcement for investigation. This often results in the disappearance of funds and property before the police can seize them. If sufficient evidence of criminal activity exists, the case is forwarded to the Financial Police, who have another three days to gather the necessary evidence. If the Financial Police are able to gather enough evidence to start prosecution procedures, then the account can stay frozen for the duration of the investigation and prosecution. If, within the 72 hour time limit, the Financial Police fail to gather sufficient evidence to convince a judge to begin prosecution, the frozen funds must be released. These time limits do not apply to accounts owned by individuals or organizations on the UN's list of designated terrorists.

In January 2002, further changes to the Criminal Code were effected which allow a judge, prosecutor, or the police (with prosecutor's assent) to freeze an account if evidence indicates that the contents were used, or will be used, to commit a crime, or if the contents are proceeds of criminal activity. In urgent cases the police can freeze the account without previous consent of the prosecutor, but within 48 hours have to inform the prosecutor, who then confirms the freeze or releases the funds. The Law on the Administration of Asset Forfeiture in Criminal Procedure, passed in August 2003, and effective on January 1, 2004, implements provisions such as handling and care responsibilities for the seizure of property.

The United States and the Czech Republic have a Mutual Legal Assistance Treaty, which entered into force on May 7, 2000. There is also an extradition treaty in force between the United States and the Czech Republic

The 2004 amendments to the Anti-Money Laundering Act authorize the FAU to cooperate with similar units around the world, regardless of whether these units are administrative or law enforcement, or whether they are members of the Egmont Group. The Czech Republic has signed memoranda of understanding (MOUs) on information exchange with Belgium, France, Italy, Croatia, Cyprus, Estonia, Latvia, Lithuania, Poland, Slovenia, Slovakia, and Bulgaria. Formalization of an agreement between the Czech Republic and Europol, the European police office, took place in 2002. The agreement allows an exchange of information about specific crimes and investigating methods, the prevention of crime, and the training of police. Among the most important crimes cited in the cooperation agreement are terrorism, drug dealing, and money laundering.

The FAU is a member of the Egmont Group. The Czech Republic actively participates in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and in 2001, underwent a mutual evaluation by the Committee. The Czech Republic continues to implement changes to its anti-money laundering regime based on the results of the mutual evaluation. In May 2003, the Czech Republic also underwent a financial sector assessment by the World Bank/IMF.

The Czech Republic is a party to the 1988 UN Drug Convention. The Czech Republic has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. The Czech Republic also is a party to the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, as well as the World Customs Organization's Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offenses. The main obstacle to ratification is the absence of legislation on criminal liability of legal persons (companies). The appropriate legislation has been proposed and will become a part of the re-codification of the criminal

code that officials hope will take effect in 2006. In the interim, the government is trying to satisfy Convention requirements by utilizing administrative or civil procedure.

The Government of the Czech Republic should continue to enhance its anti-money laundering regime and should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. In addition, the Czech Republic should continue to work toward supporting and streamlining its prosecution regime, including changing the burden of proof procedures and making legal persons subject to criminal prosecution for money laundering, so that the Czech Republic can begin to successfully prosecute anti-money laundering cases. Furthermore, the Czech Republic should enhance its asset forfeiture regime by simplifying the forfeiture of jointly owned assets and allowing for the confiscation of substitute assets.

Denmark

Denmark is a regional financial center with 108 commercial banks and 73 local and savings banks. The banking system is under the control of the Financial Supervisory Authority, and the Danish legal and regulatory systems are transparent and consistent with European Union (EU) directives and regulations. Corruption is not a major problem in Denmark. According to the 2004 Corruption Perceptions Index by Transparency International, Denmark is the third least corrupt country in the world. However, Denmark is a transit country for the smuggling of human beings and narcotics to Sweden and Norway, which creates the opportunity for corruption.

Money laundering is a criminal offense in Denmark, regardless of the predicate offense. The 1993 Act on Measures to Prevent Money Laundering covers customer identification and mandatory suspicious transaction reporting. The Gambling Casino Act of 1993 specifically addresses casino money laundering issues and customer registration information. Legislation that went into effect in June 2002 requires that the importation or exportation of any money exceeding 15,000 euros be reported to Customs upon entry into Denmark. Following 2002 amendments to the law, suspicious transaction reporting (STR) requirements apply to credit and financial institutions, life insurance companies, lawyers, accountants, tax advisors, real estate agents, money transmitters, money exchange offices, transporters of currency, insurance brokers, and retailers/auctioneers who deal in cash transactions above 15,000 euros.

Banks and other financial institutions are required to know, record, and report the identity of their customers, and to maintain those records for five years beyond the termination of the relationship. For non-account holders, the financial institutions are only required to collect and store for five years the identification information for transactions over 15,000 euros. There are no secrecy laws in Denmark that prevent disclosure of financial information to competent authorities, and there are laws that protect bankers and others who cooperate with law enforcement authorities.

Denmark's Financial Intelligence Unit (FIU), the Money Laundering Secretariat within the Public Prosecutor's office, provides a central point for collection of all intelligence related to money laundering. The FIU is also responsible for receiving STRs. STRs from the credit and financial sectors have ranged from 249 to 357 over the last five years. Denmark's Office of the Public Prosecutor for Serious Economic Crime consists of both public prosecutors and police officers specially trained in fighting economic crime. Denmark has cooperated fully with U.S. authorities with regard to money laundering investigations.

The blocking of assets either belonging to, or at the disposal of, a suspect is covered under the Danish Administration of Justice Act. Asset blocking may take place concurrent with an investigation or when charges have been filed. The Danish Penal Code provides for seizures or forfeitures of proceeds from a criminal act upon conviction.

Denmark passed comprehensive counterterrorism legislation in 2002, which was incorporated into Consolidated Act 129 in February 2004, specifically addressing terrorist financing and implementing the provisions of UNSCR 1373. Act 129 extends the Act on Measures to Prevent Money Laundering so that if a transaction is suspected of ties to terrorism financing it must have the prior consent of the Money Laundering Secretariat before it can be carried out and is subject to STR reporting requirements. Denmark has circulated to its financial institutions the UNSCR 1267 Sanction Committee's consolidated list. To date, no such assets have been identified.

The amendments to the Criminal Code in Denmark do not apply to the Faroe Islands, but the Ministry of Justice in Denmark and representatives from the Faroe Home Rule are deliberating on how to fulfill and comply with the UNSCR 1373. The existing special Criminal Code for Greenland contains provisions concerning acts committed with a terrorist purpose. The Danish Ministry of Justice will examine the revised criminal code when it becomes available, to ensure that all requirements in UNSCR 1373 are fully satisfied.

In an effort to prevent terrorist financing or transnational crime, Denmark signed an agreement in 1999 with Australia to combat money laundering and break up illegal networks. Denmark and the United States signed a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income in March 2000. The treaty provides for the exchange of information for investigative purposes. In December 2002, Denmark helped negotiate, on behalf of the EU, a U.S.-Europol agreement on the exchange of personal data and related information that aids in tracing financial transactions.

Denmark 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. Denmark has signed, but not yet ratified, the UN Convention against Corruption. Denmark is part of the Nordic Police and Customs Co-operation, the Task Force on Organized Crime in the Baltic Sea Region, Interpol, Europol, and the Schengen Agreement. Denmark is also a member of the Financial Action Task Force (FATF), and its FIU belongs to the Egmont Group. Denmark participates in European Union anti-money laundering efforts and has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision."

The Government of Denmark should continue its efforts to extend its Criminal Code amendments to the Faroe Islands and Greenland, if necessary. Demark should continue the enforcement of its comprehensive anti-money laundering/counterterrorist financing program and its active participation in international organizations to combat money laundering and the support and financing of terrorists and their organizations.

Djibouti

Djibouti is one of the more stable countries in the Horn of Africa. It is a financial hub in the sub-region, thanks to its U.S. dollar-pegged currency and its unrestricted foreign exchange. Officials from the Central Bank have not reported any recent instances of money laundering. Informal and black markets for goods remain important. Smuggled goods consist primarily of highly taxed cigarettes and alcohol. The Djibouti Free Zone (DFZ), managed by Dubai's Jebel Ali Free Zone, was inaugurated in June 2004. Once fully operational, the DFZ will approve and deliver licenses for up to 85 companies. Djibouti is not considered an offshore financial center but offshore institutions are permitted to settle at the DFZ. Two existing commercial banks handle the bulk of financial transactions. The remainder of the demand is met by a growing number of hawalas. The Central Bank makes efforts to closely monitor the activities of both the commercial banks and hawalas. Due to Djibouti's location on the Horn of Africa and its cultural and historical trading ties, Djibouti based traders and brokers are active in the region. Trade goods often provide counter valuation or a means of balancing the books in hawala transactions.

Djibouti is a party to the 1988 UN Drug Convention. signed the United Nations International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which entered into force on May 23rd, 2001. Djibouti has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. Legislation criminalizing the financing of terrorism, consistent with UNSCR 1373, is included in the Anti-Money Laundering Law passed in December 2002 as Law No. 196/AN/02/4emeL. Drafted by the three-year-old National Committee on Terrorism, this document contains provisions for prevention of, and punishment for, money laundering.

The Anti-Money Laundering Law applies to financial institutions of all forms as well as professionals involved in financial matters. Regulated activities include money deposits, insurance, investment, real estate, casinos and entertainment. The legislation also addresses international cooperation and allows for the freezing or seizing of assets in suspected terrorist finance cases. The government regularly circulates the names of individuals and entities included on the UNSCR 1267 Sanctions Committee's consolidated list. The law also requires financial institutions to verify customer information, including current residence. This verification process promotes rigorous transparency and strict control of transactions. Furthermore, it imposes criteria for: customer identification; communication of information; documentation related to international cooperation; surveillance procedures for suspect accounts; and legal protection of professional secrecy for individuals reporting suspect transactions.

Professionals convicted of facilitating money laundering or terrorist financing can face five to ten years in jail and a fine of DF 25 to 50 million ($141,283 to $282,566). A financial professional who fails to report suspect transactions is liable for fines ranging from DF 10 to 25 million ($56,513 to 141,283). The Department of Treasury receives the proceeds of any assets seized or forfeited in terrorist financing cases.

Djibouti does not have an agreement with the United States government to exchange information on money laundering, but Central Bank officials have repeatedly indicated they would fully cooperate if requested. Djibouti has a formal, bilateral agreement with Ethiopia for the exchange of information and extradition in criminal cases. Furthermore, the anti-money laundering legislation stipulates that Djibouti will cooperate with other countries by exchanging information, assisting in investigations, providing mutual technical assistance and facilitating the extradition process in money laundering cases. In addition, the Central Bank plans to set up a money laundering investigation bureau. The bureau will also provide expertise to the banking community concerning counterfeit currency, including U.S. bills.

The Government of Djibouti should accede to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. While Djibouti took a positive step by adopting anti-money laundering legislation, enforcement of the law remains a major challenge. Notwithstanding the claims of Central Bank officials, it is unlikely that there have not been any recent instances of money laundering. Though Djibouti makes an effort to control all formal transaction points, a large number of hawaladars escape Central Bank regulation. Corruption is also a concern. Corrupt customs officials can easily be tempted to allow large amounts of money to pass through the borders without any declaration. There is also a history of politically powerful and criminally "untouchable" individuals protecting suspicious financial institutions. Finally, Djibouti must also ensure that an effective anti-money laundering regime is extended to the Djibouti Free Zone as it becomes established.

Dominica

The Commonwealth of Dominica initially sought to attract offshore dollars by offering a wide range of confidential financial services, low fees, and minimal government oversight. A rapid expansion of Dominica's offshore sector without proper supervision made it attractive to international criminals and

vulnerable to official corruption. In response to international criticism, Dominica has enacted legislation to address many of the deficiencies in its anti-money laundering regime. Dominica's financial sector includes one offshore and four domestic banks, 17 credit unions, 8,601 international business companies (IBCs) (a significant increase from 1,435 in 2002), 23 insurance agencies, and three operational Internet gaming companies (although reports have indicated over 30 such gaming sites exist). There are no free trade zones in Dominica. Under Dominica's economic citizenship program individuals can purchase Dominican passports as well as official name changes for approximately $75,000 for an individual and $100,000 for a family of up to four persons. Although it was not very active in 2004, Dominica's economic citizenship program does not appear to be adequately regulated. Individuals from the Middle East, the former Soviet Union, the Peoples' Republic of China and other foreign countries have become Dominican citizens and entered the United States via a third country without visas. Subjects of United States criminal investigations have been identified as exploiting Dominica's economic citizenship program in the past.

In June 2000, the Financial Action Task Force (FATF) identified Dominica as non-cooperative in international efforts to combat money laundering (NCCT). The U.S. Department of Treasury also issued an advisory to U.S. financial institutions in July 2000 warning them to "give enhanced scrutiny" to financial transactions involving Dominica. In October 2002, Dominica was removed from the NCCT list. The U.S. Treasury advisory was removed in April 2003. The FATF noted in June 2003 that implementation of Dominica's anti-money laundering reforms had continued to improve, as did the cooperation of its Financial Intelligence Unit (FIU) with foreign authorities and its response to mutual legal assistance requests.

The Money Laundering (Prevention) Act (MLPA) No. 20 of December 2000 (effective January 2001) and its July 2001 amendments criminalize the laundering of proceeds from any indictable offense. The MLPA overrides secrecy provisions in other legislation and requires financial institutions to keep records of transactions for at least seven years. The MLPA also requires persons to report cross-border movements of currency that exceed 10,000 Eastern Caribbean dollars ($3,800) to the FIU.

Following the June 2000 action by FATF, the Minister of Finance announced a comprehensive review of all offshore banks and the establishment of an Offshore Financial Services Council (OFSC). The OFSC mandate is to advise the Government of the Commonwealth of Dominica (GCOD) on policy issues relating to the offshore sector and to make recommendations with respect to applications by service providers for licenses. Under common banking legislation enacted by its eight member jurisdictions, the Eastern Caribbean Central Bank (ECCB) acts as the primary supervisor and regulator of onshore banks in Dominica. A December 2000 agreement between the OFSC and the ECCB places Dominica's offshore banks under the dual supervision of the ECCB and the GCOD International Business Unit (IBU). In compliance with the agreement, the ECCB assesses applications for offshore banking licenses, conducts due diligence checks on applicants, and provides a recommendation to the Minister of Finance. The Minister of Finance is required to seek advice from the ECCB before exercising his powers in respect of licensing and enforcement.

The ECCB also conducts on-site inspections for anti-money laundering compliance of onshore and offshore banks in Dominica. Inspections of the offshore banks are conducted by the ECCB in collaboration with the IBU. The ECCB is unable to share examination information directly with foreign regulators or law enforcement personnel; however, legislation to permit such sharing is under draft. The Offshore Banking (Amendment) Act No. 16 of 2000 (effective January 25, 2001) prohibits the opening of anonymous accounts, prohibits IBCs from direct or indirect ownership of an offshore bank and requires disclosure of beneficial owners and prior authorization to changes in beneficial ownership of banks. All offshore banks are required to maintain a physical presence in Dominica and to have available for review on-site books and records of transactions.

The International Business Companies (Amendment) Act No. 13 of 2000 (effective January 25, 2001) requires that bearer shares be kept with an "approved fiduciary," who is required to maintain a register with the beneficial owner name and address. Additional amendments to the Act in September 2001 require previously issued bearer shares to be registered. The Act empowers the IBU to "perform regulatory, investigatory, and enforcement functions" over IBCs. The IBU staff normally consists of an Acting Manager, two professional staff (supervisors/examiners), and one administrative assistant. The IBU supervises and regulates offshore entities and domestic insurance companies. The IBU also supervises, regulates, and inspects Dominica's registered agents, and visits IBCs to ensure that the companies are operating in compliance with requirements imposed by law.

The MLPA establishes the Money Laundering Supervisory Authority (MLSA) and authorizes it to inspect and supervise non-bank financial institutions and regulated businesses for compliance with the MLPA. The MLSA is also responsible for developing anti-money laundering policies, issuing guidance notes, and conducting training. The MLSA consists of five members: a former bank manager, the IBU manager, the Deputy Commissioner of Police, a senior state attorney, and the Deputy Comptroller of Customs. The MLPA requires a wide range of financial institutions and businesses, to include any offshore institutions, to report suspicious transactions simultaneously to the MLSA and the FIU.

The May 2001 Money Laundering (Prevention) Regulations apply to all onshore and offshore financial institutions (including banks, trusts, insurance companies, money transmitters, regulated businesses, and securities companies). The regulations specify customer identification, record keeping, and suspicious transaction reporting procedures, and require compliance officers and training programs for financial institutions. The regulations require that the true identity of the beneficial interests in accounts be established, and the verification of the nature of the business and the source of the funds of the account holders and beneficiaries. Anti-Money Laundering Guidance Notes, also issued in May 2001, provide further instructions for complying with the MLPA and provide examples of suspicious transactions to be reported to the MLSA.

The FIU was also established under the MLPA, and became operational in August 2001. The FIU's staff consists of two certified financial investigators, a Director, Deputy Director, and an administrative assistant. The FIU analyzes suspicious transaction reports (STRs) and cross-border currency transactions, forwards appropriate information to the Director of Public Prosecutions, and carries on liaison with other jurisdictions on financial crimes cases. In 2004, the FIU received 109 STRs. There have been no known convictions on money laundering charges in Dominica. Since 2003, the GCOD has collaborated closely with U.S. and foreign law enforcement agencies in a widespread money laundering case involving European narcotics-trafficking proceeds in one of the now closed offshore banks in Dominica. As a result of this case, money laundering prosecutions are being brought in the United States, the United Kingdom, and Germany.

On June 5, 2003, Dominica gazetted the Suppression of Financing of Terrorism Act (No. 3 of 2003), which provides authority to identify, freeze, and seize terrorist assets, and to revoke the registration of charities providing resources to terrorists. Dominica circulates lists of terrorists and terrorist entities to all financial institutions in Dominica. To date, no accounts associated with terrorists or terrorist entities have been found in Dominica. The GCOD has not taken any specific initiatives focused on alternative remittance systems. Dominica is the only Caribbean country that has not signed the Inter-American Convention Against Terrorism.

In May 2000, a Mutual Legal Assistance Treaty between Dominica and the United States entered into force. The GCOD also has a Tax Information Exchange Agreement with the United States An Amendment to the Mutual Assistance in Criminal Matters Act, which will provide for judicial cooperation between Dominica and non-Commonwealth countries that have no mutual legal assistance treaties, passed Parliament in September 2002, but has not come into effect. The MLPA authorizes the

FIU to exchange information with foreign counterparts. The 2002 Exchange of Information Act provides for information exchange between regulators. The MLPA provides for freezing of assets for seven days by the FIU, after which time a suspect must be charged with money laundering or the assets released; assets may be forfeited after a conviction.

Dominica is a member of the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD). Dominica is also a member of the Caribbean Financial Action Task Force (CFATF), and underwent its second round mutual evaluation in September 2003. Dominica's FIU was accepted into the Egmont Group in June 2003. Dominica is a party to the 1988 UN Drug Convention. In September 2004, Dominica acceded to the UN International Convention for the Suppression of the Financing of Terrorism.

The Government of the Commonwealth of Dominica should fully implement and enforce the provisions of its legislation and provide additional resources for regulating offshore entities, including its gaming sites. Dominica should eliminate its program of economic citizenship. Dominica should continue to develop the FIU to enable it to fulfill its responsibilities and cooperate with foreign authorities. If it has not already done so, Dominica should criminalize terrorist financing. Complete implementation of its reforms remains vital to the country's ability to combat financial crime including money laundering.

Dominican Republic

The Dominican Republic continues to be a major transit country for drugs, mostly cocaine and heroin, moving to Europe and the United States. The Dominican Republic's financial institutions engage in currency transactions involving international narcotics-trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States. The smuggling of bulk cash by couriers and wire transfer remittances are the primary methods for moving illicit funds from the United States into the Dominican Republic. Once in the Dominican Republic, currency exchange houses, money remittance companies, free trade zones and casinos facilitate the laundering of these illicit funds. The Dominican Republic held elections in May 2004 and inaugurated a new President on August 16, 2004. The Government of the Dominican Republic (GODR) continues its legislative and regulatory efforts to combat drug-trafficking, corruption, money laundering, and terrorism.

Banco Intercontinental (Baninter), which was the third largest bank in the nation, is a significant example of the corruption and money laundering scandals that have occurred in the financial sector. Approximately $2.2 billion evaporated over several years due to the fraudulent schemes orchestrated by senior officials, which caused the bank to collapse. On May 13, 2003, the Banco Intercontinental president was arrested, in addition to five other bank employees. All were released on bail, and as of December 2004 none of the cases had reached the prosecution phase. The Central Bank took over the bank's companies and confiscated the assets of its principal shareholders. Despite the Central Bank's intervention and assumption of Banco Intercontinental's liabilities, the Dominican peso depreciated to about 40 to one U.S. dollar. In 2003, Banco Mercantil and Bancredito also failed and brought the combined total loss to approximately $3 billion.

Narcotics-related money laundering has been deemed a criminal offense since the enactment of Act 17 of December 1995 (the "1995 Narcotics Law"). In 2002, the GODR passed Law 72-02 to expand money laundering predicate offenses beyond illegal drug activity and controlled substances, to include other serious crimes, such as any act related to terrorism, illicit trafficking in human beings or human organs, arms trafficking, kidnapping, extortion related to recordings and electronic tapes made by physical or moral entities, theft of vehicles, counterfeiting of currency, fraud against the State, embezzlement, and extortion and bribery related to drug trafficking.

Under Decree No. 288-1996, the Superintendency of Banks decree, banks, currency exchange houses, and stockbrokers are required to know and identify their customers, keep records of transactions (five years), record currency transactions greater than $10,000, and file suspicious transactions reports (STRs). Law 72-02 broadens the requirements for customer identification, record keeping of transactions, and reporting of suspicious activity reports (SARs). Numerous other financial sectors are now covered, including securities brokers, the Central Bank, cashers of checks or other types of negotiable instruments, issuers/sellers/cashers of travelers checks or money orders, credit/debit card companies, funds remittance companies, offshore financial service providers, casinos, real estate agents, automobile dealerships, insurance companies, and certain commercial entities such as those dealing in firearms, metals, archeological artifacts, jewelry, boats, and airplanes. The law mandates that these entities are to report currency transactions exceeding $10,000, and suspicious transactions. Prior to passage of Law 72-02 financial institutions, money exchangers and remitters were the only entities required to report. Moreover, the legislation requires individuals to declare cross-border movements of currency that are equal to or greater than the equivalent of $10,000 in domestic or foreign currency.

The Unidad de Inteligencia Financiera (UIF) was created in 1997 and is located within the Superintendency of Banks. The UIF is an administrative financial intelligence unit that regulates the financial sector and has the ability to seize and freeze assets. Law No. 72-02 creates the Unidad de Analisis Financiero, to receive STRs from the newly mandated entities and to ensure efficient function of the system of registrations and analysis of information supplied by accountable entities. The powers of Unidad de Analisis Financiero supersede those of the UIF. This unit has investigative authority and will also provide support to other competent authorities on any phase of a financial investigation. Law 72-02 obligates the UIF to forward all STRs it receives from financial institutions, money exchangers, and remittance companies to the Unidad de Analisis Financiero. Those reports are to be sent within the first 15 days of each month, by means of a form or through magnetic media.

While numerous narcotics-related investigations were initiated under the 1995 Narcotics Law, and substantial currency and other assets were confiscated, there have been only three successful money laundering prosecutions under the 1995 Narcotics Law. In 2004, counternarcotics authorities submitted to the justice system 12 cases of money laundering related to narcotics, arresting three persons and seizing a total of 16 vehicles, three firearms, 62 buildings, and $1,273,536 in cash. Another 12 money laundering investigations are ongoing.

The Act allows preventive seizures and criminal forfeiture of drug-related assets, and authorizes international cooperation in forfeiture cases. In 1998, the GODR passed legislation that allows extradition of Dominican nationals on money laundering charges. Although the GODR and the United States have not put in place a mutual legal assistance treaty, according to U.S. law enforcement officials cooperation between law enforcement agencies on drug cases, human trafficking, and extradition matters remains strong.

The GODR responded to U.S. Government efforts to identify and block terrorist-related funds. Although no assets were identified or frozen, the GODR's efforts to identify and block terrorist-related funds continue through orders and circulars issued by the Ministry of Finance and the Superintendency of Banks that instruct all financial institutions to continually monitor accounts.

The UIF has been a member of the Egmont Group since June 2000. The Dominican Republic is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. On November 15, 2001, the GODR signed, but has not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism. The Dominican Republic is a party to the 1988 UN Drug Convention; and the GODR has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption.

The Government of the Dominican Republic has the legislative framework to combat money laundering and terrorist financing, but insufficient implementation leaves the country vulnerable to criminal financial activity and abuse. The Dominican Republic should remain vigilant concerning controls relating to its many free zones, which may represent vehicles to facilitate money laundering.

East Timor

East Timor is the world's newest nation and is still in the process of establishing legislation and regulations governing the financial sector. Many basic laws governing the financial sector have not been completed and capacity to monitor the sector is limited. At present, there are three banks operating in East Timor with international linkages. All three are branches of foreign banks. The largest of these is BNU, a Portuguese bank, followed by Australian ANZ bank, and Indonesian bank Mandiri. In the absence of local legislation and regulations, East Timor requires these banks to follow their host country banking laws. East Timor acknowledges the need to criminalize the financing of terrorism, but lacks the internal capacity to draft the legislation and implementing regulations. A team of advisers from the International Monetary Fund is currently assisting the Government in drafting legislation against terrorist finance and money laundering. Once such a law is enacted, additional time will likely be necessary before the country has sufficient human and monetary resources to ensure allegations of money laundering or terrorist finance can be thoroughly investigated. There is no evidence that the country's financial system has been used to finance terrorism or to launder money.

In addition to working towards criminalizing the financing of terrorism, the government of East Timor is in the process of acceding to the U.N International Convention for the Suppression of Terrorism

Ecuador

Ecuador, a major drug-transit country, with a dollar economy and a geographical situation between Colombia and Peru—both major drug-producing countries—is highly vulnerable to money laundering. With its partial and inadequate anti-money laundering controls. Real estate, sales of businesses and commercial contraband are other vehicles for money laundering. In addition to concerns about illicit transactions through financial institutions, the public identification in 2003 of two Ecuadorian front companies for the Cali drug cartel gave credence to suspicions that money laundering is taking place through "normal" commercial activity. Recurrent detections of large amounts of unexplained currency entering and leaving Ecuador indicate that transit and laundering of illicit cash are also significant activities.

The Narcotics and Psychotropic Substance Act of 1990 (Law 108) criminalizes money laundering activities only in connection with illicit drug trafficking. These activities include illegal enrichment (Article 76), conversion or transfer of assets (Article 76, 77), and creation of front men or figureheads (Article 78). A further revision of Law 108 is pending. However, there is broad agreement that Law 108 is an inappropriate vehicle for money laundering provisions that extend beyond drug offenses. In November 2003, an interagency group completed a draft of a stand-alone law criminalizing the laundering of proceeds of any crime. In addition to establishing money laundering as an autonomous offense, the draft law also provides a legal framework for establishment of a financial intelligence unit. The draft law was submitted to Congress in January 2004 and was reported out of committee in December. Its first reading is expected in January 2005.

Regulations issued pursuant to Law 108, the 1994 Financial System Law, and a 1996 Banking Superintendence Resolution require financial institutions to report to the National Drug Council (CONSEP). Within CONSEP, the Reserved Information Processing Unit (UPIR) was created to collect information related to preventing the laundering of drug money. Under Resolution JB-97-020, financial institutions are required to report suspicious transactions to CONSEP. CONSEP mandates

through internal control manuals that institutions in the national financial sector must report cash transactions that equal or exceed $5000 to the UPIR, while the financial services sector must report to the UPIR transactions equal to or greater than $2000. For example, mutual societies are required to report transactions of $5,000 and above, while financial cooperatives must report transactions of $2,000 and higher. Electronic reporting of this information was implemented in 1999. The Superintendence of Banks also requires that financial institutions under its control maintain a registry of transactions equal to or greater than $10,000 and file a monthly report with the Superintendence. Therefore, many institutions in the private sector are required to file CTRs with both the UPIR and the Superintendence. At the same time, several sectors—securities and money remitters—are not required to report to either supervisory authority. Both CONSEP and the Superintendence of Banks have the ability to sanction institutions for failure to report. Banks operating in Ecuador are also required to maintain financial transaction records for six years. There are no due diligence or banker negligence laws that hold individual bankers responsible if their institutions launder money. However, a bank's board of directors can be held legally responsible if drug money laundering occurs in their institution.

Neither the Superintendence of Banks nor CONSEP function as a financial intelligence unit. The Superintendence acts mainly as a regulatory body, while CONSEP/UPIR requests and receives information from the obligated institutions. Although CONSEP/UPIR receives suspicious transaction reports (STRs) and cash transaction reports (CTRs) and the Superintendence receives cash transaction reports, neither unit analyzes the information that is received. CONSEP provides the Public Ministry with statistical data on the suspicious activity reports (SARs) without first analyzing the data to determine if any of the SARs may be connected with money laundering, making it virtually impossible for a case to be developed or prosecuted. In 2003, the Superintendence of Banks created an investigative unit, the Unidad de Investigación Financiera, to reinforce the functions of the UPIR. The Public Ministry also has a unit for investigating general financial crimes, the Unidad de Investigaciones Financieras, which works in conjunction with the financial investigations section (SIF) of the National Police.

Some existing laws conflict with the goal of combating money laundering. For example, the Bank Secrecy Law severely limits the information that can be released by a financial institution directly to the police as part of any investigation, and the Banking Procedures Law reserves information on private bank accounts to the Banking Superintendence. In addition, the Criminal Defamation Law sanctions banks and other financial institutions that provide information about accounts to police or advise the police of suspicious transactions if no criminal activity is proven. As a result of this contradictory legal framework, cooperation between other Government of Ecuador (GOE) agencies and the police falls short of the level needed for effective enforcement of money laundering statutes. In addition, CONSEP historically refused to share financial reporting such as suspicious financial transaction reports with the Central Bank or other financial regulatory agencies such as the Banking Superintendence. As a result, Superintendence auditors could not verify if a bank was complying with the mandatory reporting required under the money laundering statutes.

Other problems conflicting with an anti-money laundering regime include the absence of regulations requiring financial institutions to exercise due diligence, the lack of reporting requirements on large amounts of currency brought into or taken out of the country, and the weak regulation of currency exchange businesses (casas de cambio). As a result of these problems, during the past five years there have been no serious investigations of drug money laundering in Ecuador. The extent money to which money laundering may be related to narcotics proceeds, or may be generated by other crimes such as contraband smuggling, illegal migration, corruption, bank fraud, or terrorism is not known. Steps taken by the GOE since 2002 to remedy this situation have been only partially effective due to the lack of a comprehensive legal framework to clarify and legitimize them. The Banking Superintendence and CONSEP still have conflicting responsibilities and authorities to receive and analyze reports from financial institutions and agencies. The draft money laundering law developed in 2003 by a GOE

interagency commission, if passed essentially as drafted, will overcome most of the current conflicts and obstacles.

Several Ecuadorian banks maintain offshore offices. The Superintendence of Banks is responsible for oversight of both offshore and onshore financial institutions. Regulations are essentially the same for onshore and offshore banks, with the exception that offshore deposits no longer qualify for the government's deposit guarantee. Anonymous directors are not permitted. Licensing requirements are the same for offshore and onshore financial institutions. However, offshore banks are required to contract external auditors pre-qualified by the banking Superintendence. These private accounting firms perform the standard audits on offshore banks that would generally be undertaken by the Superintendence in Ecuador. Bearer shares are not permitted for banks or companies in Ecuador.

Terrorist financing has not been criminalized in Ecuador. However, the Ministry of Foreign Affairs, Superintendence of Banks and the Association of Private Banks formed a working group in December 2004 to draft a law against terrorist financing. In June 2004, the Government of Ecuador (GOE) ratified the UN International Convention for the Suppression of the Financing of Terrorism. The Banking Superintendence has cooperated with the USG in requesting financial institutions to report transactions involving known terrorists, as designated by the United States as Specially Designated Global Terrorists pursuant to E.O. 13224 (on terrorist financing) or by the UN 1267 Sanctions Committee. No terrorist finance assets have been identified to date in Ecuador, nor would the Superintendence be able to administratively freeze any assets without first obtaining a court order. No steps have been taken to prevent the use of gold and precious metals to launder terrorist assets and there are currently no measures in place to prevent the misuse of charitable or non- profitable entities to finance terrorist activities.

Ecuador is a party to the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. The GOE has signed, but not yet ratified, both the Inter-American Convention Against Terrorism and the UN Convention against Corruption. Ecuador is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering and the South American Financial Action Task Force (GAFISUD). The GOE and the United States have an Agreement for the Prevention and Control of Narcotic Related Money Laundering that entered into force in 1994 and an Agreement to Implement the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of December 1988, as it relates to the transfer of confiscated property, securities and instrumentalities. There is also a Financial Information Exchange Agreement (FIEA) between the GOE and the U.S. to share information on currency transactions. Because the GOE has yet to establish a financial intelligence unit, it is one of only two South American countries that are not members of the Egmont Group.

By its membership in the United Nations, the OAS and South American Financial Action Task Force (GAFISUD), the Government of Ecuador is committed to adhere to the international standards articulated by these organizations and the Financial Action Task Force. In spite of these commitments and assistance to it by the OAS and the United States, Ecuador has yet to enact comprehensive anti-money laundering legislation or to criminalize the financing of terrorism. Ecuador should pass comprehensive money laundering legislation that encompasses all serious crimes, and includes the establishment of a single independent financial intelligence unit to which all covered institutions would report. Ecuador should also criminalize the financing of terrorism.

Egypt, The Arab Republic of

Egypt is neither a regional financial center nor does it have an offshore financial sector. The Government of Egypt (GOE) implemented changes in late 2004 to streamline cumbersome financial regulations, but the changes have not affected the level of financial crime. Egypt is still largely a cash economy, and many financial transactions do not enter the banking system at all.

While there is no significant market for illicit or smuggled goods in Egypt, authorities say that under-invoicing of imports and exports by Egyptian businessmen is a relatively common practice. The primary goal for businessmen who engage in such activity is reportedly the avoidance of taxes and customs fees. It is unclear to what extent price manipulation may be used for laundering the proceeds of other crimes. Worker remittances, particularly from numerous Egyptians working in the Gulf and elsewhere, are a potential means for laundering funds, but it is unclear if and to what extent laundering occurs through remittances. Some remittances may be sent through couriers and informal channels such as a value transfer system rather than through the banking system, due to either lack of trust or lack of familiarity with banking procedures and the lower transaction costs associated with informal exchange systems.

In 2001, the Central Bank of Egypt (CBE) and other financial regulatory bodies issued a number of anti-money laundering instructions, including "know your customer" and "suspicious transaction reporting" (STR) requirements. Nevertheless, the Financial Action Task Force (FATF) placed Egypt on its non-cooperating countries or territories (NCCT) list in June 2001, citing inter alia, the country's lack of a law specifically criminalizing money laundering. Following up the FATF designation, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory that instructed all U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Egypt. Since then, Egypt has continued to make substantial reforms and progress toward developing an effective money laundering and terrorist financing regime, incorporating the FATF recommendations, which culminated in the FATF's removal of Egypt from its list of Non-Cooperative Countries or Territories (NCCTs) in February 2004. Subsequently, the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury withdrew its advisory for U.S. financial institutions.

In May 2002, Egypt passed the Anti-Money Laundering Law (Law no. 80 of 2002). The law criminalizes the laundering of funds from narcotics-trafficking, prostitution and other immoral acts, terrorism, antiquities theft, arms dealing, organized crime, and numerous other activities. The law also requires banks to keep all records for five years, places suspicious transaction reporting (STR) requirements on the full range of financial institutions, and prohibits the opening of numbered or anonymous financial accounts. The law did not repeal Egypt's existing law on secrecy of bank accounts, but provided the legal justification for providing account information to responsible civil and criminal authorities.

The law also provides for the establishment of the Money Laundering Combating Unit (MLCU) as the Financial Intelligence Unit (FIU), which officially began operating on March 1, 2003. The MLCU is an independent entity with its own budget and staff, and has full legal authority to examine all STRs and conduct investigations with the assistance of counterpart law enforcement agencies, including the Ministry of Interior. The MLCU cooperates with all supervisory and law enforcement authorities.

Presidential Decree No. 164/2002, issued in June 2002, delineates the structure, functions, and procedures of the MLCU. The unit handles implementation of the anti-money laundering law, including publishing the executive directives. The MLCU takes direction from a five-member council, chaired by the Assistant Minister of Justice for Legislative Affairs. Other members include the chairman of the Capital Market Authority (CMA), the Deputy Governor of the Central Bank of Egypt (CBE), a representative from the Egyptian Banking Federation, and an expert in financial and banking affairs. In June 2004 the MLCU was admitted to the Egmont Group of FIUs.

In June 2003, the administrative regulations of the Anti-Money Laundering Law were issued as Prime Ministerial Decree no. 951/2003. The regulations provided the legal basis by which the MLCU derives its authority. The regulations spell out the predicate crimes associated with money laundering, establish a board of trustees to govern the MLCU, define the role of supervisory authorities and financial institutions, and allow for the exchange of information with foreign competent authorities.

The introduction of the regulations, among other things, lowers the threshold for declaring foreign currency at borders from the equivalent of approximately $20,000 to $10,000, and extends the declaration requirement to travelers leaving as well as entering the country. However, the authorities have yet to enforce this provision.

On the administrative side, the Executive Director of the MLCU is responsible for the operation of the FIU and the implementation of the policy drafted by the Council of Trustees. His responsibilities include proposing procedures and rules to be observed by different entities involved in combating money laundering, and presenting them to the Chairman of the Council of Trustees; reviewing the regulations issued by supervisory authorities for consistency with legal obligations and to ensure they are up to date; ensuring the capability and readiness of the Unit's database; exchanging information with supervisory entities abroad; acting as point of contact within the GOE; preparing periodical and annual reports on the operational status of the Unit; and taking necessary action on STRs recommended to be reported to the office of the Public Prosecution. Since its inception, the MLCU has received 850 STRs from financial institutions (an increase of about 560 STRs in 2004).

In March 2004, the CBE issued instructions requiring banks to establish internal systems enabling them to comply with the anti-money laundering laws. In addition, banks are now required to submit quarterly reports showing the progress made with respect to their anti-money laundering responsibilities. The CBE has undertaken compliance examinations of all banks operating in Egypt, carried out by a special anti-money laundering (AML) team consisting of five CBE examiners. The assessments consist of questionnaires issued by the CBE and on-site visits, to check that systems and procedures are in place. On the basis of the examinations, banks are divided into three categories: fully compliant, partially compliant, and non-compliant. To date, only one bank has been found to be non-compliant. Where deficiencies are found, the banks are notified of corrective measures to be undertaken, with a deadline for making the necessary changes, and a follow-up program of visits is undertaken to reassess compliance. In addition to the special examinations, AML compliance by banks will also be assessed as part of the comprehensive periodical examinations undertaken by the CBE. The CBE also monitors closely bureaux de change and money transmission companies for foreign exchange control purposes, with close scrutiny of accounts with transactions above certain limits. The CBE sanctions include issuing a warning letter, imposing financial penalties, forbidding banks to undertake certain activities, replacing the board of directors, and revoking the bank's license.

The Capital Market Authority (CMA), which is responsible for regulating the securities markets, has also undertaken the inspection mission of firms under its jurisdiction. The inspections were aimed at explaining and discussing AML regulations and obligations, as well as at evaluating the implementation of systems and procedures, including checking for an internal procedures manual and ensuring the appointment of compliance officers.

Money laundering investigations are carried out by one of the three law enforcement agencies in Egypt, according to the type of predicate offense involved. The Ministry of Interior, which has general jurisdiction for the investigation of money laundering crimes, has established a separate AML department, which includes a contact person for the MLCU and who coordinates with other departments within the ministry. The AML department works closely with the MLCU during investigations. It has established its own database to record all the information it received, including STRs, cases, and treaties. The Administrative Control Authority (ACA) has specific responsibility for investigating cases involving the public sector or public funds. It also has a close working relationship with the MLCU, depending on the nature of the investigation. The third law enforcement entity, the National Security Agency (NSA), plays a more limited direct role in the investigation of money laundering cases, where the predicate offense is more serious or threatens national security.

Because of its own historical problems with domestic terrorism, the GOE has sought closer international cooperation to counterterrorism and terrorist financing. The GOE has shown willingness

to cooperate with foreign authorities in criminal investigations. It has acted promptly on asset freezing requests from the United States, and continually monitors the operations of domestic non-governmental organizations (NGOs) and charities to forestall funding of terrorist groups abroad. In 2002, the GOE passed the Law on Civil Associations and Establishments (Law No. 84/2002), which governs the procedures for setting up NGOs, including their internal regulations, activities, and financial records. The law places restrictions on accepting foreign donations without prior permission from the proper authorities.

In April 2004, citing the importance of the role that the FIU plays in fighting serious financial crimes, the GOE, pursuant to Prime Minister Decree No. 676/2004, decided to grant representatives from the MLCU membership in the Egyptian National Committee for International Cooperation in Combating Terrorism, which was established in 1998. The other members of the Commission are the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Interior, and the National Security Agency. The GOE is considering the establishment of a national committee for coordinating issues regarding anti-money laundering, which will go into effect in 2005.

The United States and Egypt have a Mutual Legal Assistance Treaty, which entered into force November 2001. Egyptian authorities have cooperated with U.S. efforts to seek and freeze terrorist assets, circulating to each of their financial institutions the list of Specially Designated Global Terrorists designated by the United States pursuant to Executive Order 13224. Information about financial and other assets frozen and/or seized in connection with money laundering and terrorist financing investigations is not a matter of public record in Egypt.

Egypt was one of the founding members the Middle East and North Africa Financial Action Task Force (MENAFATF), a FATF-style regional body that promotes best practices to combat money laundering and terrorist financing in the region. In November 2004, Egypt was elected to a one-year term as the first Vice-President of MENAFATF, which was inaugurated on November 30 in Bahrain by 14 Arab countries.

Egypt is a party to the 1988 UN Drug Convention. In March 2004, it ratified the UN Convention against Transnational Organized Crime. It has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism.

The Government of Egypt has taken several significant steps in 2004 to address domestic and international concerns regarding deficiencies in its banking system and monetary policy. Egypt is reportedly eager to improve international cooperation in these areas. However, Egypt should intensify financial institution training in order to enhance the reporting mechanism for suspicious activities; consider ways of improving MLCU feedback on STRs to reporting financial institutions; and enforce cross-border currency controls, including reporting requirements. Egypt should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

El Salvador

Located on the Pacific coast of the Central American isthmus, El Salvador has one of the largest and most developed banking systems in Central America. Its most significant financial contacts are with neighboring Central American countries, as well as with the United States, Mexico, and the Dominican Republic. The January 2001 adoption of the U.S. dollar as legal tender, along with the size and growth rate of the financial sector, makes the country a potentially fertile ground for money laundering. In 2004, more than $2.5 billion in remittances was likely sent to El Salvador through the financial system. Most were sent from Salvadorans working in the United States to family members. Additional remittances flow back to El Salvador via other methods such as visiting relatives and regular mail.

Most money laundering is related to narcotics-trafficking, and, to a lesser degree, kidnapping, corruption, counterfeiting, fraud, and contraband. Criminal proceeds laundered in El Salvador are primarily from domestic criminal activity. There is no significant black market for smuggled goods. Most money laundering occurs through fund transfers between local banks and banks in the United States, the Dominican Republic, and Europe. El Salvador's financial institutions engage in currency transactions that include large amounts of U.S. currency, and could involve the proceeds of international narcotics-trafficking. It is believed that money laundering proceeds may be controlled by narcotics-traffickers or organized crime.

Decree 498 of 1998, the "Law Against the Laundering of Money and Assets," criminalizes money laundering related to narcotics-trafficking and other serious crimes, including trafficking in persons, kidnapping, extortion, illicit enrichment, embezzlement, and contraband. The law also establishes the Unidad de Investigación Financiera (UIF), El Salvador's financial intelligence unit (FIU), which is located within the Public Ministry. The UIF has been operational since January 2000. The Policía Nacional Civil (PNC) and the Central Bank also have their own anti-money laundering units.

Under Decree 498, covered entities must identify their customers, maintain records for a minimum of five years, train personnel in identification of money and asset laundering, establish internal auditing procedures, and report all suspicious transactions and transactions that exceed approximately $57,000 to the UIF. Entities obligated to comply with these requirements include banks, finance companies, exchange houses, stock exchanges and exchange brokers, commodity exchanges, insurance companies, credit card companies, casinos, dealers in precious metals and stones, real estate agents, travel agencies, the postal service, construction companies, and the hotel industry. The law includes a safe harbor provision to protect all persons who report transactions and cooperate with law enforcement authorities, and also contains banker negligence provisions that make individual bankers responsible for money laundering at their institutions. Bank secrecy laws do not apply to money laundering investigations.

To address the problem of international transportation of criminal proceeds, Decree 498 requires all incoming travelers to declare the value of goods, cash, or monetary instruments they are carrying in excess of approximately $11,400. Falsehood, omission, or inaccuracy on such a declaration is grounds for retention of the goods, cash, or monetary instruments, and the initiation of criminal proceedings. If, following the end of a 30-day period, the traveler has not proved the legal origin of said property, the Salvadoran authorities have the authority to confiscate it. The UIF has proposed legal reforms to require all travelers, both entering and departing El Salvador, to report the value of goods or cash in excess of approximately $11,400.

There were no arrests for money laundering or terrorist financing in 2004. However, two persons were prosecuted on charges of money laundering in 2003. One was convicted and sentenced to serve a prison term of seven years. This was the first conviction for money laundering under Decree 498.

The Government of El Salvador (GOES) has established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related and other assets of serious crimes. The UIF and PNC have adequate police powers to trace and seize assets, but the PNC lacks the resources to do so. Forfeited money laundering proceeds are deposited in a special fund used to support law enforcement, drug treatment and prevention, and other related government programs, while funds forfeited as the result of other criminal activity are deposited into general government revenues. Law enforcement agencies are allowed to use certain seized assets while a final sentence is pending. In 2003, the dollar amount of assets seized and forfeited totaled $4.23 million, mostly derived from narcotics-trafficking. This amount was almost 10 percent greater than the $3.85 million seized and forfeited in 2002, and eight times greater than the $508,712.14 seized and forfeited in 2001. Figures for 2004 are not available. There exists no legal mechanism to share seized assets with other countries.

Salvadoran law currently provides only for the judicial forfeiture of assets upon conviction (criminal forfeiture), and not for civil or administrative forfeiture. A draft law under consideration to reform Decree 498 includes a proposal to expand the existing law to include certain types of civil forfeiture of assets. The proposed law would also incorporate the FATF Special Recommendations on Terrorist Financing, and would include the OAS Inter-American Drug Abuse Control Commission's model regulatory reforms for the laundering of assets.

Although Decree 498 does not specifically mention terrorism or terrorist financing as predicate offenses for money laundering, it criminalizes the laundering of the proceeds of serious criminal acts. This has been interpreted to include terrorism. Therefore, it is illegal to launder money generated by a terrorist act, and assets of terrorists that are derived from criminal activities could be targeted under Decree 498. However, providing legitimate money (money that is not derived from a criminal act) to known terrorist organizations is not considered to be a crime, and the person contributing those funds could not be prosecuted unless it could be shown that he or she was directly involved in the planning or execution of a crime. The GOES has drafted counterterrorism legislation that will further define acts of terrorism and establish tougher penalties for the execution of those acts. The draft legislation, if passed, would also grant the GOES the legal authority to freeze and seize suspected assets associated with terrorists and terrorism. The GOES has provided financial institutions with the names of all individuals and entities listed by the UNSCR 1267 Sanctions Committee. These institutions are required to search for any assets related to the individuals and entities on the lists. Bank accounts belonging to a female companion of a former Red Brigade terrorist arrested in Argentina in 2002 were frozen. The woman's accounts, totaling $22,000, were frozen pending the completion of Italy's investigation. Both had previously resided in El Salvador. No additional assets linked to terrorism have been found to date. There is no evidence that any charitable or nonprofit entity in El Salvador has been used as a conduit for terrorist financing.

El Salvador has signed several agreements of cooperation and understanding with supervisors from other countries to facilitate the exchange of supervisory information, including permitting on-site examinations of banks and trust companies operating in El Salvador. El Salvador is a party to the Treaty of Mutual Legal Assistance in Criminal Matters signed by the Republics of Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua, and Panama. Salvadoran law does not require the UIF to sign agreements in order to share or provide information to other countries. The GOES is party to the Inter-American Convention on Mutual Assistance on Criminal Matters, which provides for parties to cooperate in tracking and seizing assets. The UIF is also legally authorized to access the databases of public or private entities. The GOES has cooperated with foreign governments in financial investigations related to narcotics, money laundering, terrorism, terrorism financing, and other serious crimes.

El Salvador is a member of the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD), the Caribbean Financial Action Task Force and the Egmont Group. The GOES is party to the OAS Inter-American Convention Against Terrorism and the UN International Convention for the Suppression of the Financing of Terrorism, as well as the 1988 UN Drug Convention. El Salvador ratified the UN Convention against Transnational Organized Crime and the UN Convention Against Corruption in March and July of 2004, respectively. El Salvador is also a signatory to the Central American Convention for the Prevention and Repression of Money Laundering Crimes Related to Illicit Drug Trafficking and Related Crimes.

The growth of El Salvador's financial sector, the increase in narcotics trafficking, the large volume of remittances and the use of the U.S. dollar as legal tender make El Salvador vulnerable to money laundering. El Salvador should continue to expand and enhance its anti-money laundering policies and strengthen its ability to seize and share assets. The Government of El Salvador should criminalize the support and financing of terrorists and terrorist organizations.

Equatorial Guinea

Equatorial Guinea (EG) is not a major regional financial center. EG 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 EG is still vulnerable to money laundering and terrorist financing.

Equatorial Guinea is a member of the Central African Economic and Monetary Union (CEMAC), and shares a regional Central Bank (BEAC) with Cameroon, Central African Republic, Chad, Republic of the Congo, and Gabon. The Government of EG (GOEG) also is 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 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. Equatorial Guinea, 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 (established in each member country) are the National Agencies for Financial Investigation (NAFI). In EG, 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 the banking licenses of banks that knowingly commit financial crimes. The regulations are intended to implement the Financial Action Task Force (FATF) Forty Recommendations and nine UN resolutions on terrorist 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 keeping with banker confidentiality stipulations. To date, there have been no arrests related to financial crimes.

The largest concern for EG 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 the amount transferred each day or by whom and for what reason. 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, or other groups identified by the United States or the European Union. The GOEG is subject to UNSCRs 1373 and UNSCR 1267, but has only submitted reports to the 1373 committee. The GOEG is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. EG is not a party to the 1988 UN Drug Convention.

The Government of Equatorial Guinea (GOEG) 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. EG should criminalize terrorist financing and become a party to the 1988 UN Drug Convention.

Eritrea

Eritrea is not an important regional financial center. It is believed to have little or no significance in terms of money laundering either with respect to narcotics or other criminal proceeds or terrorist financing. Eritrea is not a source of narcotics, nor is it believed to be a significant market or transit route for narcotics. There is no indication that Eritrea is experiencing an increase in financial crimes. The country's banking sector is primitive. Its connections to the rest of the world are rudimentary at best. It has no offshore sector. Given Eritrea's weak economy, the marketing of smuggled goods occurs on a small scale. Relatively little contraband enters this impoverished country and the funds generated from such activity are limited. However, due to its limited regulatory structure and its proximity to regions where terrorist and criminal organizations operate, Eritrea is vulnerable to money laundering and related activities.

Money laundering, to the extent that it occurs, largely occurs through the non-bank financial system. The government has outlawed all but one exchange house, which is controlled by the only legal political party that also controls the government. Unsanctioned exchange operations serve as a main source of foreign exchange given the lack of foreign exchange available from legal sources.

Eritrea's legal system is weak. The ten-year old country's Constitution has yet to be implemented and legal codes for civil and criminal matters remain a work in progress. The country continues to rely on many laws from the period when it was a part of Ethiopia.

Information generated by the financial sector is limited and closely held. All Eritrean banks are government-owned. No foreign banks are yet authorized to operate. The banks and financial institutions are slowly implementing computerized record keeping systems, which are designed to supply standardized reports that will eventually allow for more effective regulation by banking authorities.

The banks and other financial institutions record and report the identity of customers who engage in large currency transactions. All transactions, even for small sums, require that identification be presented. Banks maintain records of significant transactions, allowing for transactions to be traced if necessary. Bank officials claim to report all suspicious transactions to the appropriate authorities. Eritrea has no secrecy laws that would preclude the reporting of information to the authorities as long as appropriate permission is obtained.

All travelers are required to declare the currency they are carrying upon entering and leaving the country at ports, airports and other entry points. In fact, due to the unreliability of the country's financial system and the poor exchange rate offered for funds transferred through official banks and the one authorized exchange house, many travelers carry cash from Eritrea's large diaspora to their relatives living in Eritrea. These cash deliveries, while significant for Eritreans who receive them, are fairly small, typically in the range of thousands rather than tens of thousands of dollars. The Eritrean authorities have tended to tolerate this since it serves as one of the country's most important sources of foreign exchange.

Eritrean authorities do not routinely provide information on specific arrests and prosecutions, nor do they provide reliable aggregate data on crimes. Eritrea has not reached agreement with the U.S. on a mechanism for exchanging records in connection with investigations and proceedings relating to crime investigations. Nor are any negotiations underway to establish such a record exchange mechanism. It is not known whether Eritrea has established formal systems and procedures for identifying, tracing, freezing, seizing, and forfeiting narcotic-related assets or assets derived from other serious crimes including the funding of terrorism. The Eritrean government and regulatory authorities have expressed their readiness to cooperate in identifying and seizing assets generated from serious crimes and terrorism-related activities. It is not known whether authorities have actually seized or frozen such assets.

Eritrea is not a party to the UN International Convention for the Suppression of the Financing of Terrorism or the UN Convention against Transnational Organized Crime. It is party to the 1988 International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

As Eritrea's financial system becomes more integrated with international markets, the government should put a priority on implementing anti-money laundering legislation and criminalizing terrorist financing. Eritrea should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Estonia

Estonia has one of the most transparent, developed banking systems among the new European Union countries. The International Monetary Fund and international risk rating agencies closely monitor Estonia's banking system. Estonia has adopted the universal banking model, which enables credit institutions to participate in a variety of activities such as leasing, insurance, and securities. Transnational and organized crime groups are attracted to the territory due to its proximity to the Russian border. However, there have been no reported large-scale money laundering operations for the purpose of narcotics-trafficking or terrorist financing in Estonia.

In 1996, the Government of Estonia (GOE) signed the Riga Declaration on Money Laundering. Money laundering was added as a criminal offense to the Criminal Code in 1999, at the same time the Money Laundering Prevention Act came into force. Money laundering is punishable with a maximum imprisonment term of ten years. Amendments to the Money Laundering Prevention Act and Penal Code (which replaced the Criminal Code), took effect in September 2002. The amendments make money laundering committed by a legal entity a punishable crime with a maximum penalty of the compulsory liquidation of the entity.

The Money Laundering Prevention Act entered into force in 1999. According to the Act, credit and financial institutions are required to identify all individuals or representatives who carry out cash transactions above 100,000 kroons (approximately $8,600) or non-cash transactions above 200,000 kroons (approximately $17,100). Estonia's legislation requires the credit or financial institutions to report suspicious or unusual transactions to the "Rahapesu Andmeburo", Estonia's Financial Intelligence Unit (FIU).

On January 1, 2004, the Amendment Law to the Money Laundering and Terrorism Financing Prevention Act (MLTFPA) took effect; this law amends the 1999 Money Laundering Prevention Act. The MLTFPA expands the obligated reporting entities to include lawyers, accountants, tax advisors, notaries, currency exchange companies, money transmitters, lottery/gambling institutions, real estate firms, dealers in high-value goods and other intermediaries for cash transactions subject to reporting. The FIU's authority is extended to cover the supervision of those obliged reporting entities that are not covered by the supervision of the Financial Supervisory Authority.

The Estonian Financial Supervisory Authority (FSA), which unites three previous supervisory authorities (the Banking Supervision Department of the Bank of Estonia, the Securities Inspectorate, and the Insurance Supervisory Agency), began operations in January 2002. The FSA is responsible for monitoring and directing credit and financial institutions. It monitors compliance with reporting requirements and can apply administrative remedies for non-compliance.

In June 2002 the FSA approved a new guideline, "Additional Measures to Prevent Money Laundering in the Credit and Financial Institutions." This guideline conforms to the FATF's "Guidance for Financial Institutions in Detecting Terrorist Financing Activities." The Estonian Banking Association (EBA) has also issued more detailed instructions regarding information and documentation when opening an account or performing a transaction; the documents and data required in relations with

foreign legal persons, with special attention to those founded in offshore regions; and a listing of red flags useful when opening an account, performing transactions, and analyzing transactions.

Estonia established its FIU within the administration of the Police Board in 1999. In 2004 the FIU became an independent unit within the Economic Crime Department of the Central Criminal Police. The FIU's authority includes investigating money laundering cases, the ability to conduct misdemeanor procedures and issue administrative acts against violations. In 2002, the FIU received 1,073 suspicious transaction reports; in 2003 it received 1,293 reports; and, through October 2004, it received 1,189. The Tax Fraud Investigation Center was established in the structure of the Tax Board for investigation of tax crimes and other crimes connected with money laundering in 2001.

There are three free trade zones in Estonia—at the ports of Muuga and Sillamae and on the land border with Latvia. In the free zones, VAT and excise duties do not have to be paid on goods imported and later exported. The main supervisory authority responsibility for monitoring and checking the movement of goods in the free zones is the Estonian Tax and Customs Board, which is governed by the Ministry of Finance. There are strict identification requirements, similar to those used by the Estonian Border Guard, for companies and individuals using the zones. There is no indication that trade-based money laundering schemes or financiers of terrorism are active in these free zones.

The MLTFPA contains provisions that meet the requirements for the prevention of terrorist financing pursuant to United Nations (UN) and European Union directives, including the obligation to report suspicion of terrorist financing (not just money laundering), and authorizing the FIU to seize assets in terrorist financing cases. The GOE regards the financing of terrorism as a form of participation in terrorism. Acts that are aimed at the commission of terrorism (in the preparation stage) are criminalized; therefore, the GOE believes it has criminalized terrorist financing. Nevertheless, the GOE is in the process of reviewing the Penal Code and considering the introduction of terrorism financing as a distinct crime. The MLTFPA allows the FIU to freeze a transaction for two working days, and if the legal origin of the money is not proven, the FIU may seize the assets for up to 10 working days while it seeks a court judgment. The judicial system has the ability to seize the assets of suspected terrorists for an indefinite amount of time.

The FIU may exchange information with its counterparts, provided the information is used for intelligence purposes only. Bank secrecy-protected information that is to be used as evidence in court may only be shared when a mutual assistance agreement is in place. A Mutual Legal Assistance Treaty is in force between the United States and Estonia.

Estonia is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). Estonia has also endorsed and adheres to the Basle Committee's "Core Principles for Effective Banking Supervision" and is an active member of the Offshore Group of Banking Supervisors. The "Rahapesu Andmeburo" is a member of the Egmont Group and joined the European Union's financial intelligence units' net (FIU.NET). The GOE participated in the European Commission's Anti-Money Laundering Project for Economic Reconstruction Assistance (PHARE Project). The purpose of the project was to provide support to Central and Eastern European countries in the development and/or improvement of anti-money laundering regulations. In August 2000, Estonia ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds of Crime. In October 2001, the GOE signed a cooperation agreement with Europol. The GOE 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.

The Government of Estonia has been active in establishing agencies, amending current laws, and drafting new ones in its effort to strengthen its anti-money laundering regime; it should continue these efforts and enhancements. Estonia should continue its efforts to implement the European Commission's Anti-Money Laundering Project for Economic Reconstruction Assistance (PHARE

project) in order to increase its capacity to fight money laundering on a national and international level. Estonia should clarify that its laws, in fact, criminalize terrorist financing, and if not, should enact appropriate legislation to do so. Estonia should make every effort to enforce best practices within its financial community.

Ethiopia

Due primarily to its archaic financial systems and pervasive government controls, Ethiopia is not considered a regional financial center. There is no offshore sector. Ethiopia's location within the Horn of Africa region make it vulnerable to money laundering related activities perpetrated by transnational criminal organizations, terrorists, and narcotics-trafficking organizations. Sources of illegal proceeds include narcotics-trafficking, smuggling, trafficking in persons, arms trafficking, trafficking of animal products, and corruption. Since government foreign exchange controls limit possession of foreign currency, most of the proceeds of contraband smuggling and other crimes are not laundered through the official banking system. High tariffs also encourage customs fraud and trade-based money laundering.

Historically, money laundering has not been a serious problem. However, while reliable data is not available, the Federal Police have stated that incidents of money laundering have increased in the past few years. Reports indicate that alternative remittance systems, particularly hawala, are also widely used by immigrant communities. The government has closed a number of illegal hawala operations. Proposed revisions to the penal code, likely to be adopted in early 2005, would make money laundering a criminal offense.

The country has an underdeveloped financial infrastructure, containing six small private banks and three government banks. Currently, there are no foreign banks that operate within the country. The Central Bank has mandated that banks report suspicious transactions, but the supervision capability is limited, as most records and communications are not yet computerized. Foreign exchange controls limit possession of foreign currency, and the government controls the exchange of foreign currency into local currency. There are no money laundering controls applicable to non-banking financial institutions or to intermediaries. The Government of Ethiopia (GOE) has proposed terrorist finance legislation, which is still under review in Parliament. The Central Bank has the authority to identify, freeze, and seize terrorist finance related assets, and it has done so in the past. The Central Bank routinely circulates to its financial institutions the list of persons and entities that have been designated by the UNSCR 1267 Sanctions Committee. During 2004, no assets linked to these persons or entities have been identified.

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

The Government of Ethiopia should act on the pending terrorist finance legislation and pass anti-money laundering and counterterrorist finance legislation that adheres to international standards. Ethiopia should proceed with ratification of the UN Convention against Transnational Organized Crime. It should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Fiji

Money laundering does not appear to be a significant problem in Fiji. Much of the money laundering that does occur results from the use of Fiji as a transshipment point for illegal narcotics. There have also been a number of money laundering investigations involving foreign exchange dealers and overseas remittances. The Director of Public Prosecutions has successfully imposed freezing orders on

several occasions. However, there have not yet been any prosecutions or confiscations of criminal assets.

Money laundering is criminalized under the Proceeds of Crime Act of 1997. In August 2002, Fiji also established an anti-money laundering legislation working group to study needed enhancements to legislation. Key measures include widening the scope and coverage of financial institutions to include non-traditional financial and banking institutions. As a result, a new Financial Transactions Reporting Act was passed by both houses of Parliament in December 2004. The legislation will be implemented in early 2005 and amendments to the Proceeds of Crime Act and Mutual Assistance in Criminal Matters Act are in the final draft stage. Amendments to the Proceeds of Crime and the Mutual Assistance Act have been proposed to allow, among other things, for civil and criminal forfeitures and the extension of mutual assistance to foreign countries. Cabinet has given approval for the review and drafting of the amendments, which will be put before Parliament in early 2005.

The Reserve Bank of Fiji (RBF) has issued anti-money laundering guidelines for licensed financial institutions. These guidelines require licensed financial institutions to develop customer identification procedures, keep transaction and other account records for seven years, and report suspicious financial transactions to both the RBF and the anti-money laundering unit in the Fiji Police Force's Criminal Investigation Department. These guidelines went into effect in January 2001. On-site examinations of licensed banks and other deposit taking institutions for compliance with anti-money laundering laws and guidelines are reportedly ongoing.

The Permanent Secretary for Justice, along with senior representatives from the Attorney General's Office, the Office of the Director of Public Prosecutions, the Office of the Commissioner of Police, the RBF, and the Fiji Revenue and Customs Authority compose the Anti-Money Laundering Officials Committee. The Committee was established in 1998 and meets once a month to discuss the implementation of anti-money laundering measures in Fiji. In September 2002, policy guidelines were issued to authorized foreign exchange dealers and moneychangers, which included requirements to comply with anti-money laundering measures. Also in 2002, the Fiji Police, with input from the RBF and the Association of Banks in Fiji, issued a standardized suspicious transaction reporting form. More than 400 suspicious transaction reports were filed in 2004.

In 2003, Fiji established a Financial Intelligence Unit (FIU). The FIU is currently based in the Reserve Bank of Fiji. Fiji's FIU became operational in November 2003 and is responsible for identifying and referring suspect transactions to the Director of Public Prosecutions for further investigation. More than 100 cases have been developed directly from suspect transaction reports (STRs), all of which are currently being investigated by law enforcement authorities: Police, Customs, Immigration and Tax Authorities.

Fiji is a member of the Asia/Pacific Group on Money Laundering (APG). In February 2002, the APG conducted a mutual evaluation of Fiji. Fiji is a party to the 1988 UN Drug Convention. Fiji is not yet a party to either the UN International Convention for the Suppression of the Financing of Terrorism or the UN Convention against Transnational Organized Crime. In February 2003, a Counter-Terrorism Officials Group was established. The Group has drafted model counterterrorism legislation for Pacific Island countries.

The Government of Fiji has sent representatives to attend a plenary session of the Egmont Group in 2003 and to a training seminar in October 2004 for new and emerging FIUs. Fiji would like to gain admission to the Egmont Group in 2005. Fiji should criminalize terrorist financing and continue to develop its anti-money laundering regime. Fiji should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Finland

Finland is not a regional center for money laundering, financial crime, or illegal commerce. A "Corruption Perceptions Index" survey taken by Transparency International in 2004, which evaluates countries based on perceptions of corruption rather than actual statistics, ranked Finland in first place as the country perceived around the world to be the least corrupt. Nonetheless, Finnish authorities are concerned about money laundering links to organized crime, as well as financial crimes arising from fraud or other criminal activities. Criminal proceeds laundered in Finland derive mainly from domestic criminal activity. Local narcotics-trafficking organizations as well as a small number of local organized crime groups control some of the money laundering proceeds.

Finland has four Free Zones and seven Free Warehouse areas. The four designated Free Zones are located in Hanko (Southern Customs District); Hamina and Lappeenranta (Eastern Customs District); and Turku (Western Customs District). The seven Free Warehouses are located in Helsinki (Southern Customs District); Naantali, Pori, Rauma, and Vaasa (Western Customs District); and Kemi and Oulu (Northern Customs District). In Finland, the duty-free free zone and warehouse licenses have, in most cases, been granted to municipalities or cities, but one or several commercial operators, approved by the customs districts, are usually in charge of warehousing operations within the area. The duty-free storage areas are available to both domestic and foreign-owned companies. The Community Customs Code has harmonized the free zone area regulations in the EU.

Finnish free trade zones often serve as transit points for shipments of good to and from Russia. Many goods originating in East Asia and destined for St. Petersburg or Moscow are transported on the trans-Siberian railway to the Lappeenranta Free Zone, where they are temporarily stored. These are mostly high-value goods. There are no indications that the free trade zones are being used in trade-based money launderings schemes or by the financiers of terrorism. There are no supervisory programs and/or due diligence procedures in place to monitor activities in the free trade zones.

In 1994, Finland enacted legislation criminalizing money laundering related to all serious crimes. The Act of Preventing and Clearing Money Laundering (Money Laundering Act), which passed in 1998, compels credit and financial institutions, investment and fund management companies, insurance brokers and insurance companies, real estate agents, pawn shops, betting services, casinos, and most non-bank financial institutions to report suspicious transactions. Management companies and custodians of mutual funds were added as covered entities in the Money Laundering Act in 1999. Apartment rental agencies, auditors, auctioneers, lawyers, accountants, and dealers in high value goods were added when amendments to the Money Laundering Act came into force in 2003. Also included are the businesses and professions that perform other payment transfers that are not referred to in the Credit Institutions Act, such as "hawala." According to the Money Laundering Act, a covered party must identify customers, exercise due diligence, and report suspicious activity to the Money Laundering Clearing House (MLCH), Finland's financial intelligence unit or FIU.

Amendments to the Penal Code came into force on April 1, 2003. The amendments include the differentiation of penalty provisions concerning money laundering and the traditional receiving offense in order to clarify the law where some actions could be punishable under both the receiving offense and money laundering penalty provisions, and to emphasize in legislation the criminality of money laundering and its relevance to serious organized crime. Prior to the amendments, the definition of money laundering was limited only to property gained through crime. The new amendments expand the definition to include negligence and the use or transmission of property gained through an offense, and its proceeds or property replacing such property. The amendments also bring under the law those who assist in activities of concealment or laundering. With the differentiation of money laundering from the traditional receiving offense, the receiving offense penal scale now corresponds to the basic penal scale of other economic offenses, and the money laundering penal scale is set to meet international standards, with sanctions of up to six years of imprisonment.

Finland does not have any cross-border transaction reporting requirements. However, Finnish authorities have addressed the problem of the international transportation of illegal source currency and monetary instruments in the Customs Act.

The MLCH, established under the National Bureau of Investigation in March 1998, receives and investigates suspicious transaction reports (STRs) from covered reporting institutions. In 2003 the responsibilities of the MLCH were expanded to include the prevention of terrorist financing. The MLCH received 2,718 STRs in 2002, 2,716 STRs in 2003, and 4,132 STRs in 2004. Approximately four-fifths of the reports concern money laundering; the remainder consists mostly of entities designated on United States, European Union (EU), and/or UN suspected terrorist financing lists. A majority of STRs involve at least one foreign party. Nationals from 84 countries are mentioned in the reports. To some extent, this internationalization is due to the receipt of terrorist financing related STRs. Of the money laundering STRs, the most represented suspect nationalities are Finnish (48 percent), Russian (16.5 percent), Estonian (4.8 percent) and Swedish (1.6 percent).

Of all the reporting agencies, currency exchange companies are the most active in reporting suspicious transactions, accounting for 70 percent of all money laundering STRs. Other reporting entities include banks (19 percent), non-police national authorities such as Customs and the Frontier Guard (7 percent) and insurance companies (1 percent). Reports from the National Police account for approximately 0.6 percent of all STRs. The Act on Preventing and Clearing Money Laundering protects individuals that cooperate with law enforcement entities. Finland has not enacted secrecy laws that prevent disclosure of client and ownership information by financial services companies to bank supervisors and law enforcement authorities.

The MLCH has authority to initiate investigations before the basis of a pre-trial investigation has been established. Of the cases forwarded to law enforcement for pre-trial criminal investigation, the most common offenses were tax fraud (25 percent), narcotics offenses (13 percent), fraud (12 percent) and receiving offense (11 percent). Money laundering represents about 10 percent of all financial crimes in Finland. Financial crimes offenses have remained steady over the past three years (approximately 1,600 cases per year). Between 1994 and 2002, 93 people were arrested, of which 83 were convicted for money laundering.

Finnish authorities do not have national authority to permanently suspend transactions or forfeit assets independent of a judicial process. Although the authority to freeze assets rests with the National Bureau of Investigation, officials at the MLCH consult and coordinate with other branches of government, including the Ministry of Foreign Affairs, the Ministry of Interior, and the Ministry of Finance. The MLCH has the ability to freeze a transaction for up to five business days in order to determine the legitimacy of the funds. From January-November 2004 the MLCH issued 24 orders to freeze assets/suspend transactions. The total value of these transactions was approximately $1.7 million. With these orders, the MLCH recovered $630,000 of criminal proceeds. Most cases involved money laundering and financial crime. In 2003, the MLCH issued 16 orders to freeze assets/suspend transactions totaling approximately $1.8 million, of which authorities recovered approximately $1.5 million. The 2003 freeze/suspend orders show a significant increase from 2002 ($900,000 frozen/suspended of which $5,000 was recovered) and 2001 ($720,000 frozen/suspended of which $650,000 was recovered). According to the Penal Code, the proceeds of crime shall be given to the injured party. If a claim for compensation or restitution has not been filed, Finnish authorities can order forfeiture. With some exceptions, only the proceeds of a crime can be forfeited. Legitimate businesses can be seized if used to launder drug money or support terrorist activity. Finland has enacted laws for the sharing of seized narcotics assets, as well as the assets from other serious crimes, with other governments.

The Penal Code of Finland was amended at the end of 2002 with the addition of a new chapter on terrorism (Chapter 34 a). According to Section 5 of the amendment, a person who directly or indirectly

provides or collects funds in order to finance a terrorist act or who is aware that these funds shall finance a terrorist act, commits a punishable offense. Amendments to the Money Laundering Act came into force in the spring of 2003, bringing it in line with the Financial Action Task Force's (FATF) Special Recommendations on Terrorist Financing, the UN International Convention for the Suppression of the Financing of Terrorism, and the amendments to the EU Directive on Money Laundering. The amendments extend the system of money laundering prevention to include suspected terrorist financing.

Finland has national authority to freeze terrorist assets. The MLCH performs investigations on all individuals suspected of financing terrorist acts, including all individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list. To date, no Finns have been suspected of financing terrorism and no funds of foreign nationals suspected of terrorist financing have been located in Finland. In the event that funds are found, the assets could be frozen without undue delay for five business days. For the funds to remain frozen, a criminal investigation must be launched (either in Finland or abroad). The funds would remain frozen for the period of the investigation.

Finland has concluded numerous bilateral law enforcement cooperation agreements. Finland signed a tax treaty with the United States in September 1989, replacing a previous treaty signed in 1970. The current treaty has provisions to exchange information for investigative purposes. The MLCH may exchange information with other FIUs and with bodies engaged in criminal investigations, such as police services and public prosecutors. Although no Memorandum of Understanding (MOU) is required for this purpose under Finnish law, MOUs have been concluded with Belgium, Bulgaria, France, Latvia, Lithuania, Luxembourg, Poland, Spain, Switzerland, Thailand, Korea, Canada, Russia and Albania. The information exchanged may only be used for the prevention and clearing of money laundering transactions. Consequently, the information obtained may only be used as evidence with the approval of the MLCH.

Finland is party to the 1988 UN Drug Convention; the UN Convention against Transnational Organized Crime; the UN International Convention for the Suppression of the Financing of Terrorism; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the European Convention on Mutual Assistance in Criminal Matters. Finland has signed, but not yet ratified, the UN Convention against Corruption.

Finland is a member of the FATF and the Council of Europe. The MLCH is a member of the Egmont Group. Finland also co-operates with the EU, Europol, the UN, Interpol, the Baltic Sea Task Force, the Organization for Economic Co-operation and Development, and other international agencies designed to combat organized crime.

Finland should continue to enhance its anti-money laundering/counterterrorist financing regime. Finland should adopt reporting requirements for the cross-border movement of currency and financial instruments and should provide adequate supervision and oversight of its free trade zones.

France

France remains an attractive venue for money laundering because of its sizable economy, political stability, and sophisticated financial system. Common methods of laundering money in France include the use of bank deposits; foreign currency and gold bullion transactions; corporate transactions; and purchases of real estate, hotels, and works of art. A 2002 Parliamentary Report states that, increasingly, Russian and Italian organized crime networks are using the French Riviera to launder assets (or invest previously laundered assets) by buying up real estate, "a welcoming ground for foreign capital of criminal origin." The report estimates that between seven and 60 billion euros of dirty money have already been channeled through the Riviera.

The Government of France (GOF) first criminalized money laundering related to narcotics-trafficking in 1987 (Article L-627 of the Public Health Code). In 1988, the Customs Code was amended to incorporate financial dealings with money launderers as a crime. In 1996 the criminalization of money laundering was expanded to cover the proceeds of all crimes. In January 2004, the French Supreme Court judged that joint prosecution of individuals was possible on both money laundering charges and the underlying predicate offense. Prior to this judgment, the money laundering charge and the predicate offense were considered the same offense and could only be prosecuted as one offense.

In 1990, the obligation for financial institutions to combat money laundering came into effect with the adoption of the Monetary and Financial Code (MFC), and France's ratification of the 1988 UN Drug Convention. The 1996 amendment to the law also obligates insurance brokers to report suspicious transactions. In 1998, the covered parties were expanded to include non-financial professions (persons who carry out, verify or give advice on transactions involving the purchase, sale, conveyance or rental of real property). In 2001, the list of professions subject to suspicious transaction reporting requirements expanded to include legal representatives; casino managers; and persons customarily dealing in or organizing the sale of precious stones, precious materials, antiques, or works of art. Following the 2001 amendments, the law covers banks, moneychangers, public financial institutions, estate agents, insurance companies, investment firms, mutual insurers, casinos, notaries, and auctioneers and dealers in high-value goods. In 2004, the list was expanded again to include chartered accountants; statutory auditors; notaries; bailiffs; judicial trustees and liquidators; lawyers; judicial auctioneers and movable auction houses; groups, clubs, and companies organizing games of chance: lotteries, bets, sports and horse-racing forecasts; institutions/unions of pensions management and intermediaries entitled to handle securities. As a member of the European Union (EU), France is subject to EU money laundering directives, including the revised Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering (Directive 2001/97/EC), that was enacted into domestic French legislation in 2004. The GOF has enacted legislation consistent with the Financial Action Task Force (FATF) Forty Recommendations.

Decree No. 2002-770 of May 3, 2002, addresses the functioning of France's Liaison Committee against the Laundering of the Proceeds of Crime. This committee is co-chaired by the French Financial Intelligence Unit (FIU), TRACFIN (the unit for Treatment of Intelligence and Action Against Clandestine Financial Circuits), and the Justice Ministry. It comprises representatives from reporting professions and institutions, regulators, and law enforcement authorities; its purpose is to supply professions required to report suspicious transactions with better information and to make proposals in order to improve the anti-money laundering system.

The Banking Commission supervises financial institutions and conducts regular audits of credit institutions, and the Insurance and Provident Institutions Supervision Commission reviews insurance brokers. The Financial Market Authority evolved from the merger of the Securities Exchange Commission and the Financial Markets Council, and monitors the reporting compliance of the stock exchange and other non-bank financial institutions.

TRACFIN is responsible for analyzing suspicious transaction reports (STRs) that are filed by French financial institutions and non-financial professions. TRACFIN is a part of FINATER, a group created within the French Ministry of the Economy, Finance, and Industry in September 2001, in order to gather information to fight terrorist financing. The French FIU may exchange information with foreign counterparts that observe similar rules regarding reciprocity and confidentiality of information. TRACFIN works closely with the Ministry of Interior's Central Office for Major Financial Crimes (OCRGDF), which is the main point of contact for Interpol and Europol in France.

TRACFIN received 3,598 STRs in 2001, 6,896 STRs in 2002, and 9,007 STRs in 2003. Approximately 83 percent of STRs are sent from the banking sector. A total of 226 cases were referred to the judicial authorities in 2001, which resulted in 58 convictions of money laundering; 291 cases

were referred in 2002, which resulted in 14 criminal prosecutions, and 308 cases were referred in 2003, which resulted in 55 preliminary investigations and 21 judicial procedures.

Two other types of reports are required to be filed with the FIU. A report must be filed with TRACFIN (no threshold limit), when the identity of the principal or beneficiary remains doubtful despite due diligence. In addition, a report must be filed in cases where transactions are carried out on behalf of a third party natural person or legal entity (including their subsidiaries or establishments) by a financial entity acting in the form, or on behalf, of a trust fund or any other asset management instrument, when legal or beneficial owners are not known. The reporting obligation can also be extended by decree to transactions carried out by financial entities, on their own behalf or on behalf of third parties, with natural or legal persons, including their subsidiaries or establishments, that are domiciled, registered, or established in any country or territory included on the FATF list of Non-Cooperative Countries or Territories (NCCT). Currently, a reporting decree exists concerning Nauru and Burma.

Since 1986, French counterterrorist legislation has provided for the prosecution of those involved in the financing of terrorism under the more severe offense of complicity in the act of terrorism. However, in order to strengthen this provision, the Act of November 15, 2001, introduced several new characterizations of offenses, specifically including the financing of terrorism. The offense of financing terrorist activities (art. 41-2-2 of the Penal Code) is defined according to the UN International Convention for the Suppression of the Financing of Terrorism and is subject to ten years' imprisonment and a fine of 228,600 euros. The Act also includes money laundering as an offense in connection with terrorist activity (article 421-1-6 Penal Code), punishable by ten years' imprisonment and a fine of 62,000 euros. In March 2004, the GOF passed a law that extends the scope of STR to terrorist financing.

An additional penalty of confiscation of the total assets of the terrorist offender has also been implemented. Accounts and financial assets can be frozen through both administrative and judicial measures. French authorities moved rapidly to freeze financial assets of organizations associated with al-Qaida and the Taliban, and took the initiative to put two groups on the UNSCR 1267 Sanctions Committee consolidated list. France takes actions against non-Taliban and non-al-Qaida-related groups in the context of the EU-wide "clearinghouse" procedure. Within the Group of Eight, which France chaired in 2003, France has sought to support and expand efforts targeting terrorist financing. Bilaterally, France has worked to improve the capabilities of its African partners in targeting terrorist financing. On the operational level, French law enforcement cooperation targeting terrorist financing continues to be good. The GOF also passed the PERBEN II Law, which took effect in January 2004. This new law will make it easier for France to arrest and extradite suspects and cooperate with other judicial authorities in the EU.

The United States and France have entered into a Mutual Legal Assistance Treaty (MLAT), which came into force in 2001. Through MLAT requests and by other means, the French have provided large amounts of data to the United States in connection with terrorist financing. TRACFIN is a member of the Egmont Group and is the Egmont Committee Chair of the newly created Operational Working Group. TRACFIN has information-sharing agreements with 27 FIUs, in Australia, Italy, the United States, Belgium, Monaco, Spain, the United Kingdom, Mexico, the Czech Republic, Portugal, Finland, Luxembourg, Cyprus, Brazil, Colombia, Greece, Guernsey, Panama, Argentina, Andorra, Switzerland, Russia, Lebanon, Ukraine, Guatemala, Korea, and Canada.

France is a member of the FATF and a Cooperating and Supporting Nation to the Caribbean Financial Action Task Force, as well as a Supporting Observer to the Financial Action Task Force of South America Against Money Laundering (GAFISUD). France is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; the UN Convention against Transnational Organized Crime; and the UN International

Convention for the Suppression of the Financing of Terrorism. In December 2003, France signed, but has not yet ratified, the UN Convention against Corruption.

The Government of France has established a comprehensive anti-money laundering regime. France should continue its active participation in international organizations to combat the domestic and global threats of money laundering and terrorist financing.

Gabon

Gabon is not a regional financial center. The Bank of Central African States (BEAC) supervises Gabon's banking system. BEAC is a regional Central Bank that serves six countries of Central Africa. According to a 2003 letter from the Government of Gabon (GOG) to the UN Counter Terrorism Committee, in matters concerning suspicious financial transactions, banks are bound by the instructions of the Ministry of Economic and Financial Affairs. The actual monitoring of financial transactions is conducted by the Economic Intervention Service that harmonizes the regulation of currency exchanges in the member States of the Central African Economic and Monetary Community (CEMAC).

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

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

Gabon signed the 1988 UN Drug Convention in 1989, but has never ratified it. It signed the UN International Convention for the Suppression of the Financing of Terrorism in 2000, but has not yet ratified it. Reportedly, Gabon plans to ratify the latter convention in 2005. Gabon acceded to the UN Convention against Transnational Organized Crime in December 2004.

Gabon should work with the Bank of Central African States (BEAC) to establish a viable anti-money laundering and counterterrorist financing regime. Gabon should become a party to both the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism.

The Gambia

The Gambia is not a regional financial center, although it is a regional re-export center. Goods and capital are freely and legally traded in the Gambia, and, as is the case in other re-export centers, smuggling of goods occurs. However, the Customs authorities in The Gambia, with those in Senegal, are working out a scheme to curb smuggling along their shared border.

In 2003, the Government of The Gambia (GOTG) passed the Money Laundering Act (the Act). The Act states that money laundering is a criminal offense and establishes narcotics-trafficking as well as

blackmail, counterfeiting, extortion, false accounting, forgery, fraud, illegal deposit taking, robbery, terrorism, theft and insider trading as predicate offenses. Furthermore, the law requires banks and other financial institutions to know, record, and report the identity of clients engaging in significant and/or suspicious transactions. Even though individual banks may have their own requirements to keep documents longer, the law requires them to maintain records for at least six years. The Act also empowers the GOTG to identify and freeze assets of a person suspected of committing a money laundering offense.

The Gambia is a member of the Economic Community of West African States (ECOWAS) Intergovernmental Action Group against Money Laundering (GIABA), which was created in 2000 to improve cooperation in the fight against money laundering among ECOWAS member states. The GIABA is working on a law to create financial intelligence units in each of the eight West African Economic Monetary Union (WAEMU) countries so that they will be able to share information more effectively.

Banks in The Gambia are supervised by the Central Bank. The Central Bank receives weekly activity reports from all in-country financial institutions, and these reports must include information on any suspicious transactions. Banks and other financial institutions are required to know, record, and report the identities of customers engaging in transactions over the equivalent of $10,000 for individuals and $40,000 for institutions. Central Bank officials perform on-site examinations of all banks and trust companies operating in The Gambia on a yearly basis. If necessary, Central Bank officials can examine a bank or trust company more than once a year.

The Central Bank has circulated the list of terrorists designated by the USG under E.O. 13224 among Gambian banks and other financial institutions. There have been no arrests and/or prosecutions for money laundering or terrorist financing since January 2003. However, in March 2004 politician and former Majority Leader of the National Assembly Baba Jobe was sentenced to nearly 10 years in jail for failing to pay taxes and duties to the Gambian Customs and Ports Authority and for other economic crimes. In July 2004, the GOTG froze Jobe's assets in compliance with UN Security Council Resolution 1532 on Liberia, which listed Jobe among the people accused of complicity in international arms trafficking and the trade in "conflict" diamonds, in violation of UN sanctions.

The Criminal Intelligence Unit of The Gambia Police Force works in liaison with the Non-Governmental Organization Affairs Agency to verify the status of NGOs and their sources of funding.

The Gambia is a party to the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. The Gambia has not signed the UN International Convention for the Suppression of the Financing of Terrorism.

The Government of the Gambia should examine its re-export sector to determine whether or not it is being used to launder criminal proceeds. The Gambia also should expand its anti-money laundering legislation to include a comprehensive range of predicate offenses and should take steps to develop a financial intelligence unit. If it has not already done so, the Gambia should specifically criminalize terrorist financing and should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Georgia

Georgia is not considered an important regional financial center. Prior to 2003, the international community was concerned regarding the Government of Georgia's (GOG) lack of an anti-money laundering regime. In Georgia, the sources of laundered money are primarily corruption, financial crimes, and smuggling, rather than narcotics-related proceeds. Also prior to 2003, smuggling of goods across international borders was one of the country's most serious problems, with thriving black markets in Ergneti (near the uncontrolled territory of South Ossetia), Red Bridge (on the border with

Azerbaijan), and Abkhazia (breakaway region bordering Russia on the Black Sea coast). At the time, law enforcement officials provided protection to smugglers, instead of prosecuting them, helping to maintain the shadow economy that made up to 90 percent of Georgia's economic activity (based on an estimate by the Transnational Crime and Corruption Center). The new government that came into power in November 2003 placed a stronger emphasis on financial crimes and terrorist financing.

On June 6, 2003, the Georgian Parliament adopted the Anti-Money Laundering Law (AML Law) on Facilitating the Prevention of Legalization of Illicit Income. An counterterrorist financing article is also included in the AML Law. The Georgian Ministry of Justice and the Financial Monitoring Service have prepared draft amendments to the Criminal Code and Criminal Procedure Code of Georgia. The drafts have been sent to the Parliament of Georgia and are expected to be finalized by the end of 2005. A draft amendment of Article 194 of the Criminal Code introduces criminal liability of legal persons.

New draft amendments to the AML Law are currently undergoing hearings in several committees within the Parliament of Georgia. The most significant amendment requires Georgian banking and insurance institutions—holding senior management accountable—that reinvest or reinsure their assets with larger western institutions to conduct background checks on their prospective partners to ensure they have not engaged in legalizing illicit funds. One provision stipulates that persons with a criminal record are not permitted to hold prominent positions within the financial institutions or be significant shareholders of the entities.

In accordance with the Georgian Presidential Decree Number 354, Article 74 of the Law on the National Bank of Georgia and the AML Law, the Financial Monitoring Service (FMS) was created as an independent body within the National Bank of Georgia on July 16, 2003. The FMS became fully operational as the Georgian Financial Intelligence Unit (FIU) on January 1, 2004. Based on recommendations of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), the FMS developed a draft of changes and amendments to the AML Law. The Parliament of Georgia adopted the new changes and amendments on February 25, 2004. The most significant change affects Article 5, which requires all covered entities to report cash and non-cash transactions where amounts exceed 30,000 Georgian lari (approximately $16,900). The change to the law makes Article 5 operational, starting on September 1, 2004. Prior to this change only suspicious transactions (regardless of the amount) had to be reported to the FMS. New draft amendments to the AML Law will expand the covered entities, to include money remitters and pawnshops.

Covered entities which presently must report to the FMS include commercial banks; currency exchange bureaus; non-bank depository institutions; brokerage companies; securities registrars; insurance companies; founders of non-state pension schemes; casinos; entities organizing lotteries and other commercial games; entities engaged in activities related to precious metals, precious stones, antiquities, and other high-value goods; notaries; entities extending grants and charity assistance; customs authorities; and postal organizations. The FMS has received 47 suspicious transaction reports (STRs) from covered entities since the required start date of January 2004, and 4,876 currency transaction reports (CTRs) since the required start date of September 2004.

The FMS is tasked with analyzing cases of money laundering and terrorism financing, and forwarding the necessary information to authorized agencies. The FMS works closely with the General Prosecutor's Office of Georgia, Ministry of Police and Public Safety, the National Central Bureau of Interpol, and the State Department of Statistics. The FMS works with the Supervisory Authorities and monitors entities on a regular basis to increase understanding and cooperation with reporting requirements. The FMS also provides guidelines, methodological examples, recommendations, and specialized training to other government agencies, financial institutions and other monitored entities to increase their abilities to identify and monitor suspicious activity.

The new Administration has launched several investigations relating to financial misdeeds undertaken by former members of the Georgian government and has made an effort to increase law enforcement effectiveness by restructuring the agencies, providing better equipment and paying higher salaries. Economic, tax, and customs crimes have been consolidated into the Financial Police Unit under the Georgian Ministry of Finance. Border controls were strengthened, and the Ergneti market was closed. Law enforcement officials conducted several successful antismuggling operations in the other black market areas and continue to work to decrease the shadow economy.

In 2004, the National Money Laundering Prosecution Unit Special Service on Prevention of Legalization of Illicit Income was established within the Prosecutor General's Office of Georgia. The National Money Laundering Prosecution Unit is comprised of a special task force of investigators and prosecutors. It collects, investigates, and, where appropriate, prosecutes matters arising from receipt of STRs from the FMS. It also investigates and, where appropriate, prosecutes violations of the AML Law which may come to its attention by referral from law enforcement or other agencies of the government and/or because of its own in-house assessment of information suggesting violations of the AML Law or its predicate offenses. In July 2004, based on information provided by the FMS, the Special Service on Prevention of Legalization of Illicit Income opened its first criminal money laundering case, the investigation and arrest of a local bank president and other bank officers for laundering one billion dollars from Russia through Georgia to the U.S. and Caribbean islands.

Until the recent changes in the Georgian leadership, GOG officials perceived asset forfeiture as unconstitutional; therefore, legislators did not include asset forfeiture provisions in their Penal and Criminal Procedure Codes. This interpretation was based on a July 1997 landmark ruling of the Constitutional Court of Georgia to remove the confiscation clause as a form of punishment from the Criminal Code of Georgia. Confiscation as a punitive measure was deemed unconstitutional because it also applied to proceeds that might derive from an individual's legal activity, and was used in Soviet times (according to a 1961 law) to leverage punishment for any type of crime. Soviet legislation also included "special confiscation," which was used to seize assets obtained from illegal proceeds. Instead of strictly adhering to the Court's decision and removing only confiscation as a punitive measure, legislators removed all forms of confiscation from the law. From 1997 through 2003, the GOG made no serious attempts to amend the legislation or to reexamine the constitutionality of the confiscation clause. The new leadership has emphasized revising the Penal and Criminal Procedure Codes of Georgia.

The draft amendments to the Criminal Code introduce forfeiture provisions concerning: objects and/or instruments of crime, items intended for the commission of a crime, property acquired through criminal means (all items, including non-material property and legal acts/documents which grant rights over the property), and proceeds derived from property acquired through criminal means, or property of equivalent value.

Draft amendments to the Criminal Procedure Code reword the definition of "procedural confiscation" to read "forfeiture of the property, manufacturing, use, carrying, storing, transfer, transportation, and disposal of which represents crime according to the Criminal Code of Georgia, and which is executed on the basis of the court's resolution, regardless of the final decision made on the case." Another draft amendment to the Criminal Procedure Code addresses the procedure for the seizure of property. According to the draft, "for the purpose of securing a suit, procedural confiscation, measures of criminal coercion, as well as possible forfeiture of the property, the court may seize property, including bank accounts of the suspect, accused, or person on trial, and the person bearing material responsibility for his actions, provided that there are data to suppose that they may conceal or sell the property, or the property is derived through criminal means."

The draft amendments to the Criminal Code include draft Article 331 that criminalizes terrorist financing. The draft amendments to the Criminal Procedure Code include the authority for the head of

the FMS to apply to the court to seize property, prior to initiating a criminal case, if there is sufficient information to suspect that the property or person may be used for terrorist financing and/or the property belongs to terrorist or persons supporting terrorism. The FMS has issued ordinances on terrorist watch lists and the Financial Action Task Force's (FATF's) designated non-cooperative territories.

The changes and amendments to the AML Law have expanded the role of the FMS in international cooperation. Although a memorandum of understanding (MOU) is not mandatory to exchange information with other FIUs, the FMS has signed agreements with Liechtenstein, Estonia, the Czech Republic, Serbia, and Ukraine. In addition to the Egmont Group members, the FMS has cooperated with the International Monetary Fund (IMF), World Bank, the FATF, MONEYVAL, and the United States Treasury and Justice Departments.

Georgia is a member of MONEYVAL, and, in June 2004, the FMS became a member of the Egmont Group. The GOG is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism, and on February 17, 2004, ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. In December 2000, the GOG signed, but has not yet ratified, the UN Convention against Transnational Organized Crime.

The Government of Georgia has taken important steps toward the development of a sound anti-money laundering regime. Georgia should enact the pending amendments to its anti-money laundering legislation. Georgia should also take whatever additional action is necessary to bring its anti-money laundering/counterterrorist financing regime into accordance with international standards. Georgia should specifically criminalize the financing and support of terrorism and terrorists.

Germany

With one of the largest financial centers in Europe, German authorities are aware that the country's financial system could be used for money laundering purposes. Russian organized crime groups, the Italian Mafia, and Albanian and Kurdish narcotics-trafficking groups launder money through German banks, currency exchange houses, business investments, and real estate. No significant market for smuggled goods exists in the country.

In 2002, the Government of Germany (GOG) enacted a number of laws to improve authorities' ability to combat money laundering and the financing of terrorism. The Money Laundering Act, amended by the Act on the Improvement of the Suppression of Money Laundering and Combating the Financing of Terrorism of August 8, 2002, criminalizes money laundering related to narcotics-trafficking, fraud, forgery, embezzlement, and membership in a terrorist organization. It also imposes due diligence and reporting requirements on banks and financial institutions, and requires financial institutions to obtain customer identification for transactions conducted in cash or precious metals exceeding 15,000 euros. Germany has had this requirement for some time (in DM), but the information was only used for statistical purposes; only in recent years has the information been used in money laundering investigations. The legislation also calls for stiffer background checks for owners of financial institutions and tighter rules for credit card companies. Banks must report suspected money laundering to the financial intelligence unit within the Federal Criminal Police (Bundeskriminalamt or BKA), as well as to the State Attorney (Staatsanwaltschaft), who can order a freeze of the account in question. Germany's legislation has fully incorporated the Financial Action Task Force (FATF) Forty Recommendations and its Special Recommendations on Terrorist Financing, including coverage of questionable actions carried out via the Internet.

The amendments described above also brought German laws into line with the first and second European Union money laundering directives (Directive 91/308/EEC on The Prevention of The Use of

The Financial System for The Purpose of Money Laundering, as revised by Directive 2001/97/EC). These measures mandate that member states standardize and expand suspicious activity reporting requirements to include information from notaries, accountants, tax consultants, casinos, luxury item retailers, and attorneys. Since 1998, the GOG has licensed and supervised money transmitters, and has issued anti-money laundering guidelines to the industry. Germany also has a law—entered into force in 1998—that gives border officials the authority to compel individuals to declare imported currency above a certain threshold (currently 15,000 euros).

In May 2002, the German banking, securities, and insurance industry regulators were merged into a single financial sector regulator known as the Federal Financial Supervisory Authority (BaFIN). The anti-money laundering legislation requires the BaFIN to compile a centralized register of all bank accounts in Germany, including 300 million deposit accounts. As a result, on April 1, 2003, the BaFIN established a central database, which has electronic access to all key account data held by banks in Germany.

Banks cooperate with authorities and use computer-aided systems to analyze their customers and their financial dealings to identify suspicious activity. This system, which provides regulators with automated access to banks' account records, went into operation in November 2003. In the first seven weeks after its launch, the system processed 2,200 inquiries and provided information for a total of more than 9,600 inquiries. The BaFIN also commissioned 23 special bank audits in 2003 and opened a total of 201 new cases against unauthorized fund transfers and/or foreign currency transactions in 2003.

Also in 2002, Germany established a single, centralized, federal Financial Intelligence Unit (FIU) within the Federal Criminal Police. The FIU functions as an administrative unit and is staffed with financial market supervision, customs, and legal experts. The FIU is responsible for developing a central database for analyzing cases and responding to reports of suspicious transactions. As with other crimes, actual enforcement under the German federal system is carried out at the state (sub-federal) level. Each state has a joint customs/police/financial investigations unit (GFG), which works closely with the federal FIU. The number of money laundering convictions totaled 128 in 2003. U.S. authorities have conducted joint investigations with GFGs on a number of transnational cases.

Regulations for freezing assets are in place and BaFIN's new system allows for immediate freezing of financial assets. The GOG also has established procedures to enforce its asset seizure and forfeiture law. In cases where law enforcement authorities seize assets for evidentiary purposes, German law requires a direct link to the crime before seizures are allowed. Proceeds from asset seizures and forfeitures are paid into the government treasury. German authorities cooperate with U.S. authorities to trace and seize assets to the full extent that German law allows. The GOG investigates leads from other countries. However, German law does not allow for sharing forfeited assets with other countries.

In 2002, the GOG added terrorism and terrorist financing as a predicate offense for money laundering, as defined by Section 261 of the Federal Criminal Code. A 2002 amendment of the Criminal Code also allows for prosecution of members of terrorist organizations based outside of Germany. Previously, German authorities could only prosecute a member of a foreign-based terrorist organization if that group had some organized presence within Germany.

The GOG moved quickly after September 11, 2001, to identify and correct weaknesses in Germany's laws that permitted terrorists to live and study in Germany prior to that date. The first reform package closes loopholes in German law that permitted members of foreign terrorist organizations to raise money in Germany, e.g., through charitable organizations, and extremists to advocate violence in the name of religion. Germany has stepped up its legislative and law enforcement efforts to prevent the misuse of charitable entities. Germany has used its Law on Associations (Vereinsgesetz) to ban by administrative action extremist associations that threaten the constitutional order.

The second reform package, which went into effect January 1, 2002, enhances the capabilities of federal law enforcement agencies, and improves the ability of intelligence and law enforcement authorities to coordinate their efforts and to share information on suspected terrorists. The new law provides Germany's internal intelligence service with access to information from banks and financial institutions, postal service providers, airlines, and telecommunication and Internet service providers.

Germany is an active participant in UN and EU processes to monitor and freeze the assets of terrorists, and possesses the regulatory and legislative framework to identify and freeze rapidly the assets of those designated by the UN, the EU, and/or German authorities. A November 2003 amendment to the Banking Act creates a broad legal basis for the BaFIN to order freezing of assets of suspected terrorists who are EU residents. The EU Council continually updates, reviews, and issues revised lists, and Germany adheres to these lists and ensures their circulation to financial institutions. Germany and several other EU member states have taken the view that the EU Council Common Position 2001/931/CSFP requires at a minimum a criminal investigation to establish a sufficient legal basis for freezes under the EU "Clearinghouse" process.

The GOG has responded quickly to freeze over 30 accounts of entities associated with terrorists. After September 11, 2001, Germany froze many millions of euros of Taliban-era Afghan assets, but these accounts have been unfrozen and made available to the new Government of Afghanistan. The release of assets does not include accounts frozen under the administrative banning of extremist organizations under the Law on Associations.

Informal money transfer schemes, such as "hawala," are considered banking activities. Accordingly, German authorities require banking licenses for money transfer services, allowing them to prosecute unlicensed operations and to maintain close surveillance over authorized transfer agents. The BaFin has investigated a total of 2,345 cases of unauthorized financial services since 2003.

A new immigration law that went into effect in January 2005 complements counterterrorism laws. It contains provisions designed to facilitate deporting foreigners who support terrorist organizations. Furthermore, a third counterterrorism package is currently under discussion within the government.

Germany continues to be an active partner in the fight against money laundering and participates actively in a number of international fora. The FIU exchanges information with its counterparts in other countries. The GOG exchanges information with the United States through bilateral law enforcement agreements and other informal mechanisms. German law enforcement authorities also cooperate closely at the EU level, such as through Europol. Germany also has Mutual Legal Assistance Treaties (MLATs) with numerous countries. Germany and the United States signed a MLAT in October 2003. The German Bundestag is expected to ratify the new MLAT in 2005. The MLAT has also been sent to the U.S. Senate for its advice and consent. In addition, the U.S.-EU Agreements on Mutual Legal Assistance and Extradition are expected to improve further U.S.-German legal cooperation. The U.S.-German implementing instrument is currently under negotiation.

Germany is a member of the FATF, the EU, the Council of Europe, and in 2003 became a member of the Egmont Group. Germany 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. Germany signed, but has not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption. After signing the UN International Convention for the Suppression of the Financing of Terrorism in 2000, Germany ratified the instrument, effective July 17, 2004.

Since 2001, the Government of Germany has enacted legislation to strengthen its anti-money laundering and counterterrorist financing regime with the support of the German public. The Government of Germany's new anti-money laundering laws and its ratification of international instruments underline Germany's commitment to combat money laundering and to cooperate with the

international community. Information exchange with the U.S. and other countries is likely to increase as the FIU becomes more established. Germany should continue to enhance its anti-money laundering regime and continue its active participation in international fora.

Ghana

Ghana is not a regional financial center, although the government is promoting efforts to model Ghana's financial system on that of the regional financial hub in Mauritius. The government has developed new laws to stimulate financial sector growth, including the revision of the banking law to strengthen the operational independence of the Central Bank (Bank of Ghana). The Bank of Ghana has imposed higher capital requirements to increase competition and force consolidation. Due to continuing turmoil in the region, Ghana's financial sector is likely to become more important regionally as it develops.

Ghana has designated two areas as free trade zone areas and also licenses factories outside the free zone area as free zone companies. Free-zone companies export at least 70 percent of their output. Most of the companies produce garment and processed foods. The Ghana Free Zone Board and the immigration and customs authorities monitor these companies. Immigration and customs officials do not suspect that trade-based money laundering schemes are a major problem in the free trade zones.

The banking sector lacks a strong regulatory framework to prevent money laundering and other suspicious transactions, although it is sensitized to the importance of such a framework. The police suspect that non-bank financial institutions, such as foreign exchange bureaus, are used to launder the proceeds of narcotics-trafficking. They also allege that donations to religious institutions have been used as a vehicle to launder money. The number of "advanced fee" scam letters that originate in Ghana has increased dramatically, as have other related financial crimes, such as use of stolen credit and ATM cards. The informal economy makes up approximately 45 percent of the total Ghanaian economy, according to World Bank estimates. Only a small percentage of the informal economy, however, relies on the banking sector. Ghana's relatively low tariffs do not encourage smuggling. The lack of government resources, however, makes both the informal economy and smuggling difficult to track with accuracy.

Ghana has criminalized money laundering related to narcotics-trafficking and other serious crimes. The Narcotic Drug Law of 1990 provides for the forfeiture of assets upon conviction of a money laundering offense. Law enforcement can compel disclosure of bank records for drug-related offenses, and bank officials are given protection from liability when they cooperate with law enforcement investigations. Local banks are not required to report suspicious transactions, but are required by the Central Bank to report their 20 largest deposits and 20 largest withdrawals on a weekly basis. The Central Bank has circulated the list of individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list to local banks, but no assets have been identified. Ghana has cross-border currency reporting requirements. In December 2001, the Bank of Ghana began drafting money laundering legislation designed to increase the government's financial oversight capabilities. As of January 2005, the bill had still not been submitted to Parliament and is still under review. The Government of Ghana made no arrests or prosecutions related to money laundering in 2004.

Ghana participated in the formation of the Inter-Governmental Action Group Against Money Laundering (GIABA) at the December 2001 meeting of the Economic Community of West African States in Dakar. Ghana also hosted the 2002 conference of the West African Joint Operation (WAJO), which promotes regional law enforcement cooperation against narcotics-trafficking, terrorism, and money laundering.

Domestic security agencies cooperate in the fight against terrorism but need assistance. Ghana is a party to all twelve UN conventions on terrorism, including the UN International Convention for the

Suppression of the Financing of Terrorism. Ghana is a party to the 1988 UN Drug Convention. Ghana has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision." Ghana has bilateral agreements for the exchange of money laundering-related information with the United Kingdom, Germany, Brazil, and Italy.

The Government of Ghana should pass the anti-money laundering legislation that has been under review for several years, and take practical steps to develop an anti-money laundering regime in accordance with international standards. Ghana should also become a party to the UN Convention against Transnational Organized Crime.

Gibraltar

Gibraltar is a largely self-governing overseas territory of the United Kingdom (UK), which assumes responsibility for Gibraltar's defense and international affairs. As part of the European Union (EU), Gibraltar is required to implement all relevant EU directives, including those relating to anti-money laundering.

The Drug Offenses Ordinance (DOO) of 1995 and Criminal Justice Ordinance of 1995 criminalize money laundering related to all crimes, and mandate reporting of suspicious transactions by any person who becomes concerned about the possibility of money laundering. The DOO covers such entities as banks, mutual savings companies, insurance companies, financial consultants, postal services, exchange bureaus, attorneys, accountants, financial regulatory agencies, unions, casinos, charities, lotteries, car dealerships, yacht brokers, company formation agents, dealers in gold bullion, and political parties.

Gibraltar was one of the first jurisdictions to introduce and implement money laundering legislation that covered all crimes. The Gibraltar Criminal Justice Ordinance to Combat Money Laundering, which related to all crimes, entered into effect in 1996. Comprehensive anti-money laundering Guidance Notes (which have the force of law) were also issued to clarify the obligations of Gibraltar's financial service providers.

The Financial Services Commission (FSC) is responsible for regulating and supervising Gibraltar's financial services industry. It is required by statute to match UK supervisory standards. Both onshore and offshore banks are subject to the same legal and supervisory requirements. Gibraltar has 18 banks, ten of which are incorporated in Gibraltar, and all except one are subsidiaries of major international financial institutions. The FSC also licenses and regulates the activities of trust and company management services, insurance companies, and collective investment schemes. Internet gaming is permitted by the Government of Gibraltar (GOG), and is subject to a licensing regime. Gibraltar has guidelines for correspondent banking, politically exposed persons, bearer securities, and "know your customer" procedures, and has implemented the FATF Special Recommendations on Terrorist Financing.

In 1996, Gibraltar established the Gibraltar Coordinating Center for Criminal Intelligence and Drugs (GCID) to receive, analyze, and disseminate information on financial disclosures filed by institutions covered by the provisions of Gibraltar's anti-money laundering legislation. The GCID serves as Gibraltar's Financial Intelligence Unit (FIU) and is a sub-unit of the Gibraltar Criminal Intelligence Department. The GCID consists mainly of police and customs officers but is independent of law enforcement.

In 2003, the GOG adopted and implemented the European Union Money Laundering Directive 91/308/EEC on the Prevention of the Use of the Financial System for the Purpose of Money Laundering. The GOG has implemented the 1988 UN Drug Convention pursuant to its Schengen obligations. However, the Convention has not yet been extended to Gibraltar by the United Kingdom. The Mutual Legal Assistance Treaty between the United States and the United Kingdom also has not

been extended to Gibraltar. However, application of a 1988 U.S.-UK agreement concerning the investigation of drug-trafficking offenses and the seizure and forfeiture of proceeds and instrumentalities of drug-trafficking was extended to Gibraltar in 1992. Also, the DOO of 1995 provides for mutual legal assistance with foreign jurisdictions on matters related to narcotics-trafficking and related proceeds. Gibraltar has passed legislation as part of the EU decision on its participation in certain parts of the Schengen arrangements, to update mutual legal assistance arrangements with the EU and Council of Europe partners. Gibraltar is a member of the Offshore Group of Banking Supervisors (OGBS) and, in 2004, the GCID became a member of the Egmont Group.

The Government of Gibraltar should continue its efforts to implement a comprehensive anti-money laundering regime capable of thwarting terrorist financing. If it has not already done so, Gibraltar should criminalize terrorist financing and should put in place reporting requirements for cross-border currency movements.

Greece

While not a major financial center, Greece is vulnerable to money laundering related to narcotics-trafficking, prostitution, contraband cigarette smuggling, and illicit gambling activities conducted by criminal organizations originating in former Soviet constituent countries, as well as in Albania, Bulgaria, and other Balkan countries. Money laundering in Greece is controlled by organized local criminal elements associated with narcotics-trafficking, and narcotics are the primary source of laundered funds. Most of the funds are not laundered through the banking system. Rather, they are most commonly invested in real estate, hotels, and consumer goods such as automobiles. Capital disclosure requirements for prospective foreign investors are weak. As a result, Greece's five private and two state-owned casinos are susceptible to money laundering. The cross-border movement of illicit currency and monetary instruments is a continuing problem. Greece is not considered an offshore financial center, and there are no offshore financial institutions or international business companies operating within Greece. Senior Government of Greece (GOG) officials are not known to engage in or facilitate money laundering. Currency transactions involving international narcotics-trafficking proceeds are not believed to include significant amounts of U.S. currency.

The GOG criminalizes money laundering derived from all crimes in the 1995 Law 2331/1995. That law, "Prevention of and Combating the Legalization of Income Derived from Criminal Activities," imposes a penalty for money laundering of up to ten years in prison and confiscation of the criminally derived assets. The law also requires that banks and non-bank financial institutions file suspicious transaction reports (STRs). Legislation passed in March 2001 targets organized crime by making money laundering a criminal offense when the property holdings being laundered are obtained through criminal activity or cooperation in criminal activity. Money laundering became an offense in Greece under Presidential Decree 2181/93.

In 2003 Greece enacted legislation (Law 3148) that incorporates European Union (EU) provisions in directives dealing with the operation of credit institutions and the operation and supervision of electronic money transfers. Under this legislation, the Bank of Greece has direct scrutiny and control over transactions by credit institutions and entities involved in providing services for fund transfers. The Bank of Greece issues operating licenses after a thorough check of the institutions, their management, and their capacity to ensure the transparency of transactions.

Law 3259/August 2004 allows individuals and legal entities that pay taxes in Greece to repatriate capital from any bank account held outside Greece by paying a three percent tax on the transferred funds within six months. The Bank of Greece, the nation's Central Bank, has issued a circular to financial institutions that receive repatriated funds, instructing them on how to scrutinize the transfers

for possible money laundering. The Ministry of Economy and Finance has issued detailed instructions on the documentation and auditing procedures required for repatriating capital.

The Bank of Greece (through its Banking Supervision Department), the Ministry of National Economy and Finance (which supervises the Capital Market Commission), and the Ministry of Development (through its Directorate of Insurance Companies) supervise and closely monitor credit and financial institutions. Supervision includes the issuance of guidelines and circulars, as well as on-site examinations aimed at checking compliance with anti-money laundering legislation. Supervised institutions must send to their competent authority a description of the internal control and communications procedures they have implemented to prevent money laundering. In addition, banks must undergo internal audits. Bureaux de change are required to send to the Bank of Greece a monthly report on their daily purchases and sales of foreign currency.

Under Decree 2181/93, banks in Greece must demand customer identification information when opening an account or conducting transactions that exceed 15,000 euros. If there is suspicion of illegal activities, banks can take reasonable measures to gather more information on the identification of the person. Greek citizens must provide a tax registration number if they conduct foreign currency exchanges of 1,000 euros or more, and proof of compliance with tax laws in order to conduct exchanges of 10,000 euros or more. Banks and financial institutions are required to maintain adequate records and supporting documents for at least five years after ending a relationship with a customer, or in the case of occasional transactions, for five years after the date of the transaction.

Every bank and credit institution is required by law to appoint an officer to whom all other bank officers and employees must report any transaction they consider suspicious. Reporting obligations also apply to government employees involved in auditing, including employees of the Bank of Greece, the Ministry of Economy and Finance, and the Capital Markets Commission. Reporting individuals are required to furnish all relevant information to the prosecuting authorities. Reporting individuals are protected by law.

Greece has adopted banker negligence laws under which individual bankers may be held liable if their institutions launder money. Banks and credit institutions are subject to heavy fines if they breach their obligations to report instances of money laundering; bank officers are subject to fines and a prison term of up to two years. There have been no objections from banking and political groups to the GOG's policies and laws on money laundering.

All persons entering or leaving Greece must declare to the authorities any amount they are carrying over 2,000 euros. Reportedly, however, cross-border currency reporting requirements are not uniformly enforced at all border checkpoints.

Law 2331/1995 establishes the Competent Committee (CC) to receive and analyze STRs and to function as Greece's Financial Intelligence Unit (FIU). The CC is chaired by a senior judge and includes representatives from the Bank of Greece, the nation's Central Bank; various government ministries; and the stock exchange. If the CC believes that an STR warrants further investigation, it forwards the STR to the Financial Crimes Enforcement Unit, a multi-agency group that functions as the CC's investigative arm. In 2004, the Financial Crimes Enforcement Unit was renamed the Special Control Directorate (YPEE) and placed under the direct supervision of the Ministry of Economy and Finance. The CC is also responsible for preparing money laundering cases on behalf of the Public Prosecutor's Office.

There have been several arrests for money laundering since January 2002. These involved the Greek owners (and their spouses) of vessels transporting cocaine from Colombia and other Western Hemisphere countries. The guilty parties received five-year sentences.

With regard to the freezing of accounts and assets, the GOG is preparing draft legislation to harmonize its laws with relevant legislation of the EU and other international organizations. The new law will

incorporate elements of the EU Framework Decision on the freezing of funds and other financial assets and the EU Council regulation on combating the financing of terrorism. The basic law on money laundering, Law 2331/1995, will be amended and supplemented accordingly. YPEE has established a mechanism for identifying, tracing, freezing, seizing, and forfeiting assets of narcotics-related and other serious crimes; the proceeds are turned over to the GOG. According to the 1995 law, all property and assets used in connection with criminal activities is seized and confiscated by the GOG following a guilty verdict. Legitimate businesses can be seized if used to launder drug money. The GOG has not enacted laws for sharing seized narcotics-related assets with other governments.

The Ministry of Justice unveiled legislation on combating terrorism, organized crime, money laundering, and corruption in March 2001; Parliament passed the legislation in July 2002. Under a new counterterrorism law (Law 3251/July 2004), anyone who provides financial support to a terrorist organization faces imprisonment of up to ten years. If a private legal entity is implicated in terrorist financing, it faces fines of between 20,000 and 3 million euros, closure for a period of two months to two years, and ineligibility for state subsidies. The new law incorporates the Financial Action Task Force (FATF) Special Eight Recommendations on Terrorist Financing.

The Bank of Greece and the Ministry of National Economy and Finance have the authority to identify, freeze, and seize terrorist assets. The Bank of Greece has circulated to all financial institutions the list of individuals and entities that have been included on the UNSCR 1267 Sanctions Committee's consolidated list as being linked to Usama Bin Ladin, the al-Qaida organization, or the Taliban, or that the EU has designated under relevant authorities. Suspect accounts (of small amounts) have been identified and frozen.

There are no known plans on the part of the GOG to introduce legislative initiatives aimed at regulating alternative remittance systems. Illegal immigrants or individuals without valid residence permits are known to send remittances to Albania and other destinations in the form of gold and precious metals, which are often smuggled across the border in trucks and buses. The financial and economic crimes police as well as tax authorities closely monitor charitable and nongovernmental organizations; there is no evidence that such organizations are being used as conduits for the financing of terrorism.

Greece is a member of the FATF, the EU, and the Council of Europe. The CC is a member of the Egmont Group. The GOG is a party to the 1988 UN Drug Convention, and in December 2000 became a signatory to the UN Convention against Transnational Organized Crime. On April 16, 2004, Greece became a party to the UN International Convention for the Suppression of the Financing of Terrorism. Greece has signed bilateral police cooperation agreements with Egypt, Albania, Armenia, France, the United States, Iran, Israel, Italy, China, Croatia, Cyprus, Lithuania, Hungary, Macedonia, Poland, Romania, Russia, Tunisia, Turkey, and Ukraine. It also has a trilateral police cooperation agreement with Bulgaria and Romania, and a bilateral agreement with Ukraine to combat terrorism, drug trafficking, organized crime and other criminal activities.

Greece exchanges information on money laundering through its Mutual Legal Assistance Treaty (MLAT) with the United States, which entered into force November 20, 2001. The Bilateral Police Cooperation Protocol provides a mechanism for exchanging records with U.S. authorities in connection with investigations and proceedings related to narcotics-trafficking, terrorism, and terrorist financing. Cooperation between the U.S. Drug Enforcement Administration and YPEE has been extensive, and the GOG has never refused to cooperate. The CC can exchange information with other FIUs, although it prefers to work with a memorandum of understanding in such exchanges.

The Government of Greece should extend and implement suspicious transaction reporting requirements for gaming and stock market transactions, and should adopt more rigorous standards for casino ownership or investments. Additionally, Greece should ensure uniform enforcement of its cross-border currency reporting requirements and take steps to deter the smuggling of precious gems

and metals across its borders. Greece should also enact its pending legislation to bring its asset forfeiture regime up to international standards.

Grenada

Improvement has been noted in Grenada's anti-money laundering regime and the supervision of its financial sector. Like those of many other Caribbean jurisdictions, the Government of Grenada (GOG) raises revenue from the offshore sector by imposing licensing and annual fees upon offshore entities. As of December 2004, Grenada has one offshore bank, which is currently under investigation, one trust company, one management company, and one international insurance company. Grenada is reported to have over 20 Internet gaming sites. There are also 859 international business companies (IBCs). The domestic financial sector includes six commercial banks, 26 registered domestic insurance companies, two credit unions, and four or five money remitters. The GOG has repealed its economic citizenship legislation.

In September 2001, the Financial Action Task Force (FATF) placed Grenada on the list of noncooperative countries and territories in the fight against money laundering (NCCT). The FATF in its report cited several concerns: inadequate access by Grenadian supervisory authorities to customer account information, inadequate authority for Grenadian supervisory authorities to cooperate with foreign counterparts, and inadequate qualification requirements for owners of financial institutions. In April 2002, the U.S. Department of Treasury issued an advisory to banks and other financial institutions operating in the United States, to give enhanced scrutiny to all financial transactions originating in or routed to or through Grenada, or involving entities organized or domiciled, or persons maintaining accounts, in Grenada. Grenada's efforts to put into place the legislation and regulations necessary for adequate supervision of Grenada's offshore sector prompted the FATF to remove Grenada from the NCCT list in February 2003. The Department of Treasury also lifted its advisory on Grenada in April 2003.

Grenada's Money Laundering Prevention Act (MLPA) of 1999, which came into force in 2000, criminalizes money laundering related to offenses under the Drug Abuse (Prevention and Control) Act, whether occurring within or outside of Grenada, or other offenses occurring within or outside of Grenada, punishable by death or at least five years' imprisonment in Grenada. The MLPA also establishes a Supervisory Authority to receive, review, and forward to local authorities suspicious activity reports (SARs) from covered institutions, and imposes customer identification requirements on banking and other financial institutions. The Proceeds of Crime (Amendment) Act of 2003 extends anti-money laundering responsibilities to a number of non-bank financial institutions.

Financial sector legislation was strengthened, and the Grenada International Financial Services Authority (GIFSA), which monitors and regulates offshore banking, was brought under stricter management. An amendment to the GIFSA Act (No. 13 of 2001) eliminates the regulator's role in marketing the offshore sector. GIFSA makes written recommendations to the Minister of Finance in regard to the revocation of offshore entities' licenses and issues certificates of incorporation to IBCs. In the future, GIFSA is expected to assume authority for regulating both onshore and offshore institutions, in some areas sharing supervision with the Eastern Caribbean Central Bank (ECCB). It is expected that GIFSA will be renamed the Grenada Authority for the Regulation of Financial Institutions. Legislation implementing the Grenada Authority for the Regulation of Financial Institutions as the new regulatory body was defeated in the Senate; however, the legislation will be reintroduced in 2005.

The International Companies Act regulates IBCs and requires registered agents to maintain records of the names and addresses of directors and beneficial owners of all shares, as well as the date the person's name was entered or deleted on the share register. Currently, there are 15 registered agents licensed by the GIFSA. There is an ECD$30,000 ($11,500) penalty, and possible revocation of the

registered agent's license, for failure to maintain records. The International Companies Act also gives GIFSA the authority to conduct on-site inspections to ensure that the records are being maintained on IBCs and bearer shares. GIFSA began conducting inspections in August 2002.

The International Financial Services (Miscellaneous Amendments) Act 2002 requires all offshore financial institutions to recall and cancel any issued bearer shares and to replace them with registered shares. The holders of bearer shares in nonfinancial institutions must lodge their bearer share certificates with a licensed registered agent. These agents are required by law to verify the identity of the beneficial owners of all shares and to maintain this information for seven years. GIFSA was given the authority to access the records and information maintained by the registered agents, and can share this information with regulatory, supervisory, and administrative agencies.

The Minister of Finance has signed a memorandum of understanding (MOU) with the ECCB that grants the ECCB oversight of the offshore banking sector in Grenada. Legislation that would incorporate the ECCB's new role into existing offshore banking legislation was adopted in 2003, but is not in effect. The ECCB will have the authority to share bank and customer information with foreign authorities. The ECCB already provides similar regulation and supervision to Grenada's domestic banking sector.

Grenada's legal framework effectively enables GIFSA to obtain customer account records from an offshore financial institution upon request, and to share the customer account information that regulated financial institutions must maintain under due diligence requirements with other regulatory, supervisory, and administrative bodies. GIFSA also has the ability to access auditors' working papers, and can share this information as well as examination reports with relevant authorities.

The Supervisory Authority issues anti-money laundering guidelines, pursuant to Section 12(g) of the MLPA, that direct financial institutions to maintain records, train staff, identify suspicious activities, and designate reporting officers. The guidelines also provide examples to help bankers recognize and report suspicious transactions. The Supervisory Authority is authorized to conduct anti-money laundering inspections and investigations. The Supervisory Authority can also conduct investigations and inquiries on behalf of foreign counterpart authorities and provide them with the results. Financial institutions could be fined for not granting access to Supervisory Authority personnel.

Financial institutions must report SARs to the Supervisory Authority within 14 days of the date that the transaction was determined to be suspicious. A financial institution or an employee who willfully fails to file a SAR or makes a false report is liable to criminal penalties that include imprisonment or fines up to ECD$250,000, and possibly revocation of the financial institution's license to operate.

In June 2001, the GOG established a Financial Intelligence Unit (FIU) that is headed by a prosecutor from the Attorney General's office; the staff includes an assistant superintendent of police, four additional police officers, and two support personnel. In 2003, Grenada enacted an FIU Act (No. 1 of 2003). The FIU, which operates within the police force but is assigned to the Supervisory Authority, is charged with receiving SARs from the Supervisory Authority and with investigating alleged money laundering offenses. By November 2004, the FIU had received 45 SARs. The GOG has obtained two drug-related money laundering convictions and has confiscated $19,000. Three other drug-related money laundering cases are pending before the courts, and $56,000 has been frozen in connection with those cases. Grenada has cooperated extensively with U.S. law enforcement in numerous money laundering and other financial crimes investigations. As a result, several subjects in the United States were successfully prosecuted.

In 2003, Grenada enacted counterterrorist financing legislation, which provides authority to identify, freeze, and seize terrorist assets. The GOG circulates lists of terrorists and terrorist entities to all financial institutions in Grenada. There has been no known identified evidence of terrorist financing in

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

During 2003, the GOG passed the Exchange of Information Act No. 2 of 2003, which will strengthen the GOG's ability to share information with foreign regulators. A Mutual Legal Assistance Treaty and an Extradition Treaty have been in force between Grenada and the United States since 1999. Grenada also has a Tax Information Exchange Agreement with the United States. Grenada's cooperation under the Mutual Legal Assistance Treaty has recently been excellent. Grenada also has demonstrated consistently good cooperation with the U.S. Government by responding rapidly to requests for information involving money laundering cases. Grenada is an active member of the Caribbean Financial Action Task Force (CFATF), and underwent a second CFATF mutual evaluation in September 2003. Grenada is a member of the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering. Grenada is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism, and as of May 2004, the UN Convention against Transnational Organized Crime.

Although the Government of Grenada has strengthened the regulation and oversight of its financial sector, it must remain alert to potential abuses and must steadfastly implement the laws and regulations it has adopted. Grenada should also continue to enhance its information sharing, particularly with other Caribbean jurisdictions.

Guatemala

Guatemala is a major transit country for illegal narcotics from Colombia and precursor chemicals from Europe. Those factors, combined with historically weak law enforcement and judicial regimes, corruption, and increasing organized crime activity, lead authorities to suspect that significant money laundering occurs in Guatemala. According to law enforcement sources, narcotics-trafficking is the primary source of money laundered in Guatemala; however, the laundering of proceeds from other illicit sources, such as human trafficking, contraband, kidnapping, tax evasion, vehicle theft, and corruption, is substantial. Officials of the Government of Guatemala (GOG) believe that couriers, offshore accounts, and wire transfers are used to launder funds, which are subsequently invested in real estate, capital goods, large commercial projects, and shell companies, or are otherwise transferred through the financial system.

Guatemala is not considered a regional financial center, but it is an offshore center. Exchange controls have largely disappeared and dollar accounts are common, but some larger banks conduct significant business through their offshore subsidiaries. The Guatemalan financial services industry is comprised of 25 commercial banks (3 more in the process of liquidation); approximately 11 offshore banks (all affiliated, as required by law, with a domestic financial group); seven licensed money exchangers (hundreds exist informally); 27 money remitters, including wire remitters and remittance-targeting courier services; 18 insurance companies; 18 financial societies (bank institutions that act as financial intermediaries specializing in investment operations); 15 bonded warehouses; 198 cooperatives, credit unions, and savings and loan institutions; 13 credit card issuers; seven leasing entities; 12 fianzas (financial guarantors); and one check-clearing entity run by the Central Bank.

The Superintendence of Banks (SIB), which operates under the general direction of the Monetary Board, has oversight and inspection authority over the Bank of Guatemala, as well as over banks, credit institutions, financial enterprises, securities entities, insurance companies, currency exchange houses, and other institutions as may be designated by the Bank of Guatemala Act. Guatemala's relatively small free trade zones target regional maquila (assembly line industry) operations and are not considered by GOG officials to be a money laundering concern.

The offshore financial sector initially offered a way to circumvent currency controls and other costly financial regulations. However, financial sector liberalization has largely removed many incentives for legitimate businesses to conduct offshore operations. All offshore institutions are subject to the same requirements as onshore institutions. In June 2002, Guatemala enacted the Banks and Financial Groups Law (No. 19-2002), which places offshore banks under the oversight of the SIB. The law requires offshore banks to be authorized by the Monetary Board and to maintain an affiliation with a domestic institution. It also prohibits an offshore bank that is authorized in Guatemala from doing business in another jurisdiction; however, banks authorized by other jurisdictions may do business in Guatemala under certain limited conditions.

Guatemala completed the process of reviewing and licensing its offshore banks in 2004, which included performing background checks of directors and shareholders. In order to authorize an offshore bank, the financial group to which it belongs must first be authorized, under a 2003 resolution of the Monetary Board. Eleven offshore banks have been authorized. By law, no offshore financial services businesses other than banks are allowed, but there is evidence that they exist in spite of that prohibition. In 2004 the SIB and Guatemala's financial intelligence unit, the Intendencia de Verificación Especial, concluded a process of reviewing and licensing all offshore entities, a process which resulted in the closure of two operations. No offshore trusts have been authorized, and offshore casinos and Internet gaming sites are not regulated.

There is continuing concern over the volume of money passing informally through Guatemala. Much of the more than $2 billion in remittance flows pass through informal channels. The large sums of money seized in airports-totaling over $2 million in 2004-suggest that proceeds from illicit activity are regularly hand carried over Guatemalan borders. Increasing financial sector competition should continue to expand services and bring more people into the formal banking sector, isolating those who abuse informal channels.

In June 2001, the Financial Action Task Force (FATF) placed Guatemala on the list of Non-Cooperative Countries and Territories (NCCT) in the fight against money laundering. Since that time, authorities have implemented the necessary reforms to bring Guatemala into compliance with international standards, including the creation of a Financial Intelligence Unit (FIU) and the passage of comprehensive anti-money laundering legislation. An inspection in May 2004 by a FATF review team found that the GOG had made excellent progress, and Guatemala was removed from the NCCT list at the FATF plenary in June 2004.

In November 2001, Guatemala enacted Decree 67-2001, the "Law Against Money and Asset Laundering," to address several of the deficiencies identified by the FATF. Article 2 of the law expands the range of predicate offenses for money laundering from drug offenses to any crime. Individuals convicted of money or asset laundering are subject to a non-commutable prison term ranging from six to 20 years, and fines equal to the value of the assets, instruments, or products resulting from the crime. Convicted foreigners will be expelled from Guatemala. Conspiracy and attempt to commit money laundering are also penalized. Guatemalan authorities have had some success using these conspiracy provisions to target narcotics-traffickers.

Since the FATF designation, the GOG has taken important steps to reform its anti-money laundering program. On April 25, 2001, the Guatemalan Monetary Board issued Resolution JM-191, approving the "Regulation to Prevent and Detect the Laundering of Assets" (RPDLA) submitted by the Superintendence of Banks. The RPDLA, effective May 1, 2001, requires all financial institutions under the oversight and inspection of the SIB to establish anti-money laundering measures, and introduces requirements for transaction reporting and record keeping. Covered institutions must establish money laundering detection units, designate compliance officers, and train personnel to detect suspicious transactions. The Guatemalan financial sector has largely complied with these requirements and has a generally cooperative relationship with the SIB.

Decree 67-2001 adds record keeping and transaction reporting requirements to those already in place as a result of the RPDLA. These new requirements apply to all entities under the oversight of the SIB, as well as several other entities, including credit card issuers and operators, check cashers, sellers or purchasers of travelers checks or postal money orders, and currency exchangers. The law establishes that owners, managers, and other employees are expressly immune from criminal, civil, or administrative liability when they provide information in compliance with the law. However, it holds institutions and businesses responsible, regardless of the responsibility of owners, directors, or other employees, and they may face cancellation of their banking licenses and/or criminal charges for laundering money or allowing laundering to occur. The requirements also apply to offshore entities that are described by the law as "foreign-domiciled entities" that operate in Guatemala but are registered under the laws of another jurisdiction.

Covered institutions are prohibited from maintaining anonymous accounts or accounts that appear under fictitious or inexact names; non-banks, however, may issue bearer shares, and there is limited banking secrecy. Covered entities are required to keep a registry of their customers as well as of the transactions undertaken by them, such as the opening of new accounts, the leasing of safety deposit boxes, or the execution of cash transactions exceeding approximately $10,000. Under the law, covered entities must maintain records of these registries and transactions for five years.

Decree 67-2001 also obligates individuals and legal entities to report to the competent authorities cross-border movements of currency in excess of approximately $10,000. At Guatemala City airport, a new special unit was formed in 2003 to enforce the use of customs declarations upon entry to and exit from Guatemala. Compliance is not regularly monitored at land borders.

Decree 67-2001 establishes a FIU, the Intendencia de Verificación Especial (IVE), within the Superintendence of Banks, to supervise covered financial institutions and ensure their compliance with the law. The IVE began operations in 2002 and has a staff of 25. The IVE has the authority to obtain all information related to financial, commercial, or business transactions that may be connected to money laundering. Covered entities are required to report to the IVE any suspicious transactions within twenty-five days of detection and to submit a comprehensive report every trimester, even if no suspicious transactions have been detected. Entities also must maintain a registry of all cash transactions exceeding approximately $10,000 or more per day, and report these transactions to the IVE. The IVE conducts inspections on the covered entities' management, compliance officers, anti-money laundering training programs, "know-your-client" policies and auditing programs; it inspected 30 entities in 2004. The IVE may impose sanctions on financial institutions for noncompliance with reporting requirements, and has imposed over $100,000 in civil penalties to date.

Since its inception, the IVE has received approximately 1,200 suspicious transaction reports (STRs) from the 287 covered entities in Guatemala. All STRs are received electronically, and the IVE has developed a system of prioritizing them for analysis. STRs are given a rating of "A," "B," "C," or "D," with "A" being high-profile cases that warrant immediate analysis, and "D" being cases that do not appear to be highly suspicious and are filed away for possible analysis in the future. Of the 266 STRs the IVE received as of October 2004, eight have been categorized as class "A," 69 as class "B," and 189 as class "C" or "D."

After determining that an STR is highly suspicious, the IVE gathers further information from public records and databases, other covered entities and foreign FIUs, and assembles a case. Bank secrecy can be lifted for the investigation of money laundering crimes. Once the IVE has determined a case warrants further investigation, the case must receive the approval of the SIB before being sent to the Anti-Money or Other Assets Laundering Unit (AML Unit) within the Public Ministry. Under current regulations, the IVE cannot directly share the information it provides to the AML Unit with any other special prosecutors (principally the anticorruption or counternarcotics units) in the Public Ministry.

The IVE also assists the Public Ministry by providing information upon request for other cases the prosecutors are investigating.

Eight cases have been referred by the IVE to the AML Unit, four of which stem from public corruption. One of these investigations has resulted in nine persons facing charges, with additional arrests still pending. In several cases, assets have been frozen. Two money laundering prosecutions have been concluded, one of which resulted in a conviction. The Public Ministry is appealing the decision of the case that did not result in conviction. Both cases resulted in confiscation of the defendant's assets. Additional cases have been developed from cooperation between the Public Ministry and the IVE. The Public Ministry's AML Unit had initiated 143 cases as of November 2004. Five cases have been concluded, with three sentences handed out and the remaining two awaiting appeal and retrial by the prosecutors. Sixty-five cases are either under continuing investigation or in initial stages of the trials, and the remaining cases were transferred to other offices for investigation and prosecution (such as the anticorruption unit) due to the nature of their particular predicate offenses. Several high profile cases of laundering proceeds from major corruption scandals involving officials of the previous government are currently under investigation and have resulted in arrests and substantial seizures of funds and assets. These seizures have been supported by the cooperating financial institutions along with the vast majority of public and political interests.

Under current legislation, any assets linked to money laundering can be seized. Within the GOG, the IVE, the National Civil Police, and the Public Ministry have the authority to trace assets; the Public Ministry can seize assets temporarily or in urgent cases; and the Courts of Justice have the authority to permanently seize assets. The GOG passed reforms in 1998 to allow the police to use narcotics traffickers' seized assets. These provisions also allow for 50 percent of the money to be used by the IVE and others involved in combating money laundering. In 2003, the Guatemalan Congress approved reforms to enable seized money to be shared among several GOG agencies, but the Constitutional Court temporarily suspended those provisions and this impasse has not yet been addressed under the new administration.

An additional problem is that the courts do not allow seized currency to benefit enforcement agencies while cases remain open. For money laundering and narcotics cases, any seized money is deposited in a bank safe and all material evidence is sent to the warehouse of the Public Ministry. There is no central tracking system for seized assets, and it is currently impossible for the GOG to provide an accurate listing of the seized assets in custody. In 2004, Guatemalan authorities seized more than $2 million in bulk currency, significantly less that the $20 million seized in 2003 (although one case alone in 2003 accounted for more than $14 million). The lack of access to the resources of seized assets outside of the judiciary has made sustaining seizure levels difficult for the resource-strapped enforcement agencies.

Guatemala has taken several initiatives with regard to terrorist financing. According to the GOG, Article 391 of the Penal Code already sanctions all preparatory acts leading up to a crime, and financing would likely be considered a preparatory act. Technically, both judges and prosecutors can issue a freeze order on terrorist assets, but no test case has validated these procedures. The legality of freezing assets in Guatemala when no predicate offense has been legally established remains to be determined. The GOG has been very cooperative in looking for terrorist financing funds. A comprehensive counterterrorism law that includes provisions against terrorist financing was introduced in Congress in 2003; however, the law has not yet been passed. The absence of terrorist financing legislation places the GOG in a position of noncompliance with the FATF Special Recommendations on Terrorist Financing and the UNSCR Resolution 1373 against Terrorism.

The SIB, through the IVE, has signed Memorandums of Understanding (MOUs) with Argentina, the Bahamas, Barbados, Bolivia, Brazil, Colombia, Costa Rica, the Dominican Republic, El Salvador, Honduras, Mexico, Montserrat, Panama, Peru, Spain and Venezuela. During 2004, the SIB signed

MOUs with Belgium, France, South Korea and the United States. Guatemala also signed an agreement with the USG Office of the Comptroller of the Currency to cooperate on supervision issues, and has begun negotiations to sign an MOU with Puerto Rico. Guatemalan law enforcement is actively cooperating with appropriate USG law enforcement agencies on cases of mutual interest.

Guatemala 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. The GOG has signed, but not yet ratified, the UN Convention against Corruption. Guatemala is a party to the Central American Convention for the Prevention of Money Laundering and Related Crimes, and is a member of the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD) and the Caribbean Financial Action Task Force (CFATF). In 2003, the IVE became a member of the Egmont Group.

Corruption and organized crime remain strong forces in Guatemala and may prove to be the biggest hurdles facing the Government of Guatemala in the long term. Guatemala has made efforts to comply with international standards and improve its anti-money laundering regime. In 2004, Guatemalan authorities completed implementation of new procedures to license and monitor offshore banks, and demonstrated that they could use anti-money laundering laws to successfully target criminals. However, the Guatemala should take steps to immobilize bearer shares, and to identify and regulate offshore financial services and gaming establishments. Guatemala should pass legislation to criminalize terrorist financing and continue efforts to improve enforcement and implementation of needed reforms. Cooperation between the IVE and the Public Ministry has improved since the new administration took office in January 2004, and several investigations have led to prosecutions. However, Guatemala should continue to focus its efforts on boosting its ability to successfully investigate and prosecute money launderers, and on distributing seized assets to law enforcement agencies to assist in the fight against money laundering and other financial crime.

Guernsey

The Bailiwick of Guernsey (the Bailiwick) covers a number of the Channel Islands (Guernsey, Alderney, Sark, and Herm in order of size and population). The Islands are a Crown Dependency because the United Kingdom (UK) is responsible for their defense and international relations. However, the Bailiwick is not part of the UK. Alderney and Sark have their own separate parliaments and civil law systems. Guernsey's parliament legislates criminal law for all of the islands in the Bailiwick. The Bailiwick alone has competence to legislate in and for domestic taxation. The Bailiwick is a sophisticated financial center and, as such, it continues to be vulnerable to money laundering at the layering and integration stages.

There are 16,071 companies registered in the Bailiwick. Non-residents own approximately half of the companies, and they have an exempt tax status. These companies do not fall within the standard definition of an international business company (IBC). Local residents own the remainder of the companies, including trading and private investment companies. Exempt companies are not prohibited from conducting business in the Bailiwick, but must pay taxes on profits of any business conducted in the islands. Companies can be incorporated in Guernsey and Alderney, but not in Sark, which has no company legislation. Companies in Guernsey may not be formed or acquired without disclosure of beneficial ownership to the Guernsey Financial Services Commission (the Commission).

Guernsey has 59 banks, all of which have offices, records, and a substantial presence in the Bailiwick. The banks are licensed to conduct business with residents and non-residents alike. There are 597 international insurance companies and 496 collective investment funds. There are also 19 bureaux de change, which file accounts with the tax authorities. Many are part of a licensed bank, and it is the bank that publishes and files accounts.

Guernsey has put in place a comprehensive legal framework to counter money laundering and the financing of terrorism. The Proceeds of Crime (Bailiwick of Guernsey) Law 1999, as amended, is supplemented by the Criminal Justice Proceeds of Crime (Bailiwick of Guernsey) Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Regulations, 2002. The legislation criminalizes money laundering for all crimes except drug-trafficking, which is covered by the Drug Trafficking (Bailiwick of Guernsey) Law, 2000. The Proceeds of Crime Law and the Regulations are supplemented by Guidance Notes on the Prevention of Money Laundering and Countering the Financing of Terrorism, issued by the Commission. There is no exemption for fiscal offenses. The 1999 law creates a system of suspicious transaction reporting (including about tax evasion) to the Guernsey Financial Intelligence Service (FIS). The Bailiwick narcotics-trafficking, anti-money laundering, and terrorism laws designate the same foreign countries as the UK to enforce foreign restraint and confiscation orders.

The Drug Trafficking (Bailiwick of Guernsey) Law 2000 consolidates and extends money laundering legislation related to narcotics-trafficking. It introduces the offense of failing to disclose the knowledge or suspicion of drug money laundering. The duty to disclose extends beyond financial institutions to cover others as well, for example, bureaux de change and check cashers.

In addition, the Bailiwick authorities recently enacted the Prevention of Corruption (Bailiwick of Guernsey) Law of 2003. They have also resolved to merge existing drug trafficking, money laundering and other crimes into one statute, and to introduce a civil forfeiture law.

On April 1, 2001, the Regulation of Fiduciaries, Administration Businesses, and Company Directors, etc. (Bailiwick of Guernsey) Law of 2000 ("the Fiduciary Law") came into effect. The Fiduciary Law was enacted to license, regulate and supervise company and trust service providers. Under Section 35 of the Fiduciary Law, the Commission creates Codes of Practice for corporate service providers, trust service providers and company directors. Under the law, the Commission must license all fiduciaries, corporate service providers and persons acting as company directors of any business. In order to be licensed, these agencies must pass strict tests. These include "know your customer" requirements and the identification of clients. These organizations are subject to regular inspection, and failure to comply could result in the fiduciary being prosecuted and/or its license being revoked. The Bailiwick is fully compliant with the Offshore Group of Banking Supervisors Statement of Best Practice for Company and Trust Service Providers.

Since 1988, the Commission has regulated the Bailiwick's financial services businesses. The Commission regulates banks, insurance companies, mutual funds and other collective investment schemes, investment firms, fiduciaries, company administrators and company directors. The Bailiwick does not permit bank accounts to be opened unless there has been a "know-your-customer" inquiry and verification details are provided. The AML/CFT Regulations contain penalties to be applied when financial services businesses do not follow the requirements of the Regulations. Company incorporation is by act of the Royal Court, which maintains the registry. All first-time applications to form a Bailiwick company have to be made to the Commission, which then evaluates each application. The court will not permit incorporation unless the Commission and the Attorney General or Solicitor General have given prior approval. The Commission conducts regular on-site inspections and analyzes the accounts of all regulated institutions.

The Guernsey authorities have established a forum, the Crown Dependencies Anti-Money Laundering Group, where the Attorneys General from the Crown Dependencies, Directors General and other representatives of the regulatory bodies, and representatives of police, Customs, and the FIS meet to coordinate the anti-money laundering and counterterrorism policies and strategy in the Dependencies.

The FIS operates as the Bailiwick's financial intelligence unit (FIU). The FIS began operations in April 2001, and is currently staffed by Police and Customs/Excise Officers. The FIS is directed by the Service Authority, which is a small committee of senior Police and Customs Officers who co-ordinate

with the Bailiwick's financial crime strategy and report to the Chief Officers of Police and Customs/Excise. The FIS is mandated to place specific focus and priority on money laundering and terrorism financing issues. Suspicious Transaction Reports (STRs) are filed with the FIS, which is the central point within the Bailiwick for the receipt, collation, evaluation, and dissemination of all financial crime intelligence. The FIS received 777 SARs in 2002, 705 SARs in 2003, and 757 SARs in 2004.

In November 2002, the International Monetary Fund (IMF) undertook an assessment of Guernsey's compliance with internationally accepted standards and measures of good practice relative to its regulatory and supervisory arrangements for the financial sector. The IMF report states that Guernsey has a comprehensive system of financial sector regulation with a high level of compliance with international standards. As for AML/CFT, the IMF report highlights that Guernsey has a developed legal and institutional framework for AML/CFT and a high level of compliance with the FATF Recommendations.

There has been counterterrorism legislation covering the Bailiwick since 1974. The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, replicates equivalent UK legislation. Legislation consistent with UNSCR 1373 and 1390 was enacted in domestic law at the same time as they were enacted in the UK.

The Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2000, furthers cooperation between Guernsey and other jurisdictions by allowing certain investigative information concerning financial transactions to be exchanged. Guernsey cooperates with international law enforcement on money laundering cases. In cases of serious or complex fraud, Guernsey's Attorney General can provide assistance under the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law 1991. The Commission also cooperates with regulatory/supervisory and law enforcement bodies.

On September 19, 2002, the United States and Guernsey signed a Tax Information Exchange Agreement. The agreement provides for the exchange of information on a variety of tax investigations, paving the way for audits that could uncover tax evasion or money laundering activities. Currently, similar agreements are being negotiated with other countries, among them members of the European Union.

After its extension to the Bailiwick, Guernsey enacted the necessary legislation to implement the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, the 1990 Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, and the 1988 UN Drug Convention. The 1988 Agreement Concerning the Investigation of Drug Trafficking Offenses and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, as amended in 1994, was extended to the Bailiwick in 1996. The Bailiwick has requested that the UK Government seek the extension to the Bailiwick of the UN International Convention for the Suppression of the Financing of Terrorism.

The Attorney General's Office is represented in the European Judicial Network and has been participating in the European Union's PHARE anti-money laundering project. The Commission cooperates with regulatory/supervisory and law enforcement bodies. It is a member of the International Association of Insurance Supervisors, the Offshore Group of Insurance Supervisors, the Association of International Fraud Agencies, the International Organization of Securities Commissions, the Enlarged Contact Group for the Supervision of Collective Investment Funds, and the Offshore Group of Banking Supervisors. The FIS is a member of the Egmont Group.

Guernsey has put in place a comprehensive anti-money laundering regime, and has demonstrated its ongoing commitment to fighting financial crime. Bailiwick officials should continue both to carefully monitor Guernsey's anti-money laundering program to assure its effectiveness, and to cooperate with

international anti-money laundering authorities. The Bailiwick should continue to press the UK to extend the UN International Convention for the Suppression of the Financing of Terrorism to Guernsey.

Guinea

Guinea has an unsophisticated banking system and is not a regional financial center. Banking leaders in Guinea estimate that 70 to 80 percent of business transactions take place in cash. Several expatriate communities in Guinea maintain strong ties to their countries of origin and are sources of international currency transfers. Both formal and informal money transfer services have expanded greatly in Guinea in recent years. Guinea has an active black market for foreign currency-especially euros, U.S. dollars, and CFA francs. Contraband is common. Merchants dealing in small quantities comprise most of the business transactions in Guinea. Guinea's mining industry leads to an influx of foreign currency. In addition to large mining operations, Guinea has an industry of small-scale, traditional mining. This small traditional mining industry, which deals primarily with diamonds and gold, lends itself to money laundering, as few records are kept and sales are made in cash. In 2002, Guinean police seized over $1.5 million high quality counterfeit U.S. currency tied to the gold and diamond trade. Instability in the region surrounding Guinea also contributes to a permissive environment. Given Guinea's status as a relatively stable country in a troubled region, rebels and refugees from neighboring nations try to bring substantial amounts of cash, counterfeit currency and precious stones into Guinea.

Some narcotics-trafficking occurs in Guinea. Heroin, cocaine, and amphetamines are imported into the country, usually by expatriate communities, while cannabis and Indian hemp are widely cultivated locally. Authorities report that drug use is growing, despite their efforts to combat it.

Article 398 of the Guinean Penal Code criminalizes money laundering related to narcotics-trafficking. Violations are punishable by 10 to 20 years in prison and a fine of $2,500 to $50,000. While some commercial banks in Guinea are voluntarily using software or other methods to detect suspicious transactions, no anti-money laundering regime is in place. The Ministry of Finance has approached an international accounting and consulting firm to assist the Government of Guinea in writing an anti-money laundering law.

Authorities have made no money laundering arrests and no prosecutions for money laundering or terrorist financing since January 1, 2004. Authorities seized no monies related to financial crimes. Guinea is a party to the 1988 UN Drug Convention. Guinea is also a party to the UN International Convention for the Suppression of the Financing of Terrorism, but it is not a party to the UN Convention against Transnational Organized Crime. A lack of resources makes full implementation of these international standards difficult for the Government of Guinea.

Guinea should enact comprehensive anti-money laundering legislation that criminalizes money laundering for all serious crimes and also criminalizes terrorist financing. Guinea should become a party to the UN Convention against Transnational Organized Crime.

Guinea-Bissau

Guinea-Bissau is not considered an important regional financial center. It is a Central Bank of West African States (BCEAO) member country. While anecdotal evidence of money laundering exists, Bissau-Guinean officials are not aware of its extent. Guinea-Bissau has an unofficial money transfer system, similar to the hawala alternative remittance system, but authorities are unaware of the scope of this system. However, there are numerous cases of corruption, narcotics-trafficking, arms dealing and other crimes that could engender money laundering. Contraband smuggling exists at border points with neighboring countries, but it is not known whether the resulting funds are being laundered through the banking system. Guinea-Bissau's courts did not function during most of 2003. Public

servants are owed months of salary by a government in arrears and corruption is rampant. Money laundering could occur in all these areas and would be extremely difficult to detect.

Guinea-Bissau is a member of the Intergovernmental Group Against Money Laundering (GIABA), a regional body established by the Economic Union of West African States (ECOWAS) to facilitate regional coordination and harmonization of anti-money laundering programs in the region. GIABA recently hosted a self-evaluation exercise on anti-money laundering capabilities in conjunction with the International Monetary Fund and ECOWAS member states.

Guinea-Bissau is reportedly going to adopt a Uniform Act on Money Laundering that implements standards drafted by the West African Economic and Monetary Union (WAEMU) member states in conjunction with GIABA and the BCEAO. Under the harmonized WAEMU standards, Guinea-Bissau will join the other seven WAEMU countries and ultimately the 15 members of ECOWAS in updating the judicial and penal code concerning money laundering and crimes of corruption, establishing a Financial Intelligence Unit (FIU), and strengthening law enforcement and detection capability of money laundering and corruption.

A regulation at the regional level was approved by the council of ministers of the WAEMU on September 19, 2002; this regulation permits the freezing of accounts and other assets related to the financing of terrorism.

No arrests or prosecutions for money laundering or terrorist financing were made in 2004.

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

The Government of Guinea-Bissau should criminalize terrorist financing and should take steps to develop an anti-money laundering regime in accordance with international standards. Guinea-Bissau should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. It should avail itself of the opportunity to work closely with BCEAO and GIABA, as well as other international organizations, toward these ends.

Guyana

Guyana is neither an important regional financial center nor an offshore financial center, nor does it have any notable offshore business sector or free trade zones. The scale of money laundering, though, is thought to be large given the size of the informal economy, which is estimated to be at least 40 percent of the size of the formal sector. Some speculate that the number could be as high as 60 percent. Money laundering has been linked to trafficking in drugs, firearms and persons, as well as corruption and fraud. There are suspicions that high levels of drug trafficking and money laundering are propping up the Guyanese economy. Political instability, government inefficiency, an internal security crisis, and a lack of resources have significantly impaired Guyana's efforts to bolster its anti-money laundering regime. Investigating and trying money laundering cases is not a priority for law enforcement. The Government of Guyana (GOG) made no arrests or prosecutions for money laundering in 2004 due to lack of legislation.

The Money Laundering Prevention Act passed in 2000 is not yet fully in force, due to inadequate implementing legislation, difficulties associated with finding suitable personnel to staff the Financial Investigations Unit (FIU) and the Bank of Guyana's lack of capacity to fully execute its mandate. Crimes covered by the Money Laundering Prevention Act include illicit narcotics-trafficking, illicit trafficking of firearms, extortion, corruption, bribery, fraud, counterfeiting, and forgery. The law also

requires that incoming or outgoing funds over $10,000 be reported. Licensed financial institutions are required to report suspicious transactions, although banks are left to determine thresholds individually according to banking best practices. Suspicious activity reports must be kept for seven years. The legislation also includes provisions regarding confidentiality in the reporting process, good faith reporting, penalties for destroying records related to an investigation, asset forfeiture, international cooperation and extradition for money laundering offenses.

The GOG established a financial intelligence unit in 2003, and as of July 2004 the unit is operational. There is currently enough funding (provided by the GOG with assistance by the USG) to pay for the staff. Funding for operations is still being sought. To date, the FIU has conducted preliminary investigations on approximately 28 cases and is preparing drafts of legislation related to terrorist finance and money laundering. Asset forfeiture is provided for under the Money Laundering Act, although the guidelines for implementing seizures/forfeitures have not yet been finalized.

The Ministry of Foreign Affairs and the Bank of Guyana (the country's Central Bank), continue to assist U.S. efforts to combat terrorist financing by working towards coming into compliance with relevant UNSCRs. In 2001 the Central Bank, the sole financial regulator as designated by the Financial Institutions Act of March 1995, issued orders to all licensed financial institutions expressly instructing the freezing of all financial assets of terrorists, terrorist organizations, individuals and entities associated with terrorists and their organizations. Guyana has no domestic laws authorizing the freezing of terrorist assets, but the government created a special committee on the implementation of UNSCRs, co-chaired by the Head of the Presidential Secretariat and the Director General of the Ministry of Foreign Affairs. To date the procedures have not been tested, due to an absence of identified terrorist assets located in Guyana.

Guyana is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. A 2002 CICAD review of Guyana's efforts against money laundering noted numerous deficiencies in implementation, resources, and political will. Guyana is now also a member of the Caribbean Financial Action Task Force (CFATF), but has not yet participated in that organization's mutual evaluation process. Guyana is a party to the 1988 UN Drug Convention. Guyana became a party to the UN Convention against Transnational Organized Crime by accession on September 14, 2004. Guyana has not signed the UN International Convention for the Suppression of the Financing of Terrorism.

Guyana should enact legislation and/or regulations to implement its Money Laundering law. Guyana should provide appropriate resources and awareness training to its regulatory, law enforcement and prosecutorial personnel. Guyana should criminalize terrorist financing and adopt measures that would allow it to block terrorist assets.

Haiti

Haiti is not a major regional financial center, and, given Haiti's dire economic condition and unstable political situation, it is doubtful that it will become a major player in the region's formal financial sector in the near future. Money laundering activity is strongly linked to the drug trade that passes though Haiti, which continues to be a major drug-transit country, especially for cocaine. In 2004, there was no significant decrease in the amount of cocaine coming from Colombia and Venezuela en route to the United States. There also is a significant amount of contraband passing through Haiti. While the informal economy in Haiti is significant and partly funded by narcotics proceeds, smuggling is historically prevalent and pre-dates narcotics-trafficking. Money laundering occurs in the banking system and the non-bank financial system, including in casino, foreign currency, and real estate transactions. Further complicating the picture is the cash that is routinely transported to Haiti from Haitians and their relatives in the United States in the form of remittances. While there is no indication of terrorist financing, Haiti is often a stopover for illegal migrants from several countries.

Flights to Panama City, Panama, remain the main identifiable mode of transportation for money couriers. Usually travelers, predominantly Haitian citizens, hide large sums, $30,000-$100,000 on their persons. Haitian Narcotics Officers interdicting these outbound funds often collect a 6-12 percent fee and allow the couriers to continue without arrest. During interviews, couriers usually declare that they intend to use the large amounts of U.S. currency to purchase clothing and other items to be sold upon their return to Haiti.

In March 2004, an interim government was established in Haiti following former President Jean Bertrand Aristide's resignation and departure. The interim government has taken initiatives to establish improvements in economic and monetary policies as well as working to improve governance and transparency. These initiatives include reducing interest rates to facilitate access to credit, implementation of a trade facilitation unit, and an effort to enhance the dialogue between the public and private sectors. Currently, only two foreign banks are operating in Haiti.

In response to the corruption that continues to plague Haiti, the interim government created an Anti-Corruption Unit, in addition to a commission to examine transactions conducted by the government from 2001 through February 2004. Haiti has also taken steps to address its money laundering problems.

In 2002, Haiti formed a National Committee to Fight Money Laundering, the Comite National de Lutte Contre le Blanchiment des Avoirs (CNLBA). The CNLBA is in charge of promoting, coordinating, and recommending policies to prevent, detect, and suppress the laundering of assets obtained from the illicit trafficking of drugs and other serious offenses. The CNLBA, through the Unite Centrale de Renseignements Financiers (UCREF), Haiti's Financial Intelligence Unit (FIU), is responsible for receiving and analyzing reports submitted in accordance with the law. Although established in 2002, the CNLBA is still not fully functional or funded.

Since 2001, Haiti has used the "Law on Money Laundering from Illicit Drug Trafficking and other Crimes and Punishable Offenses" (AML Law) as its primary anti-money laundering tool. All financial institutions and natural persons are subject to the money laundering controls of the AML Law. The AML Law criminalizes money laundering, which it defines as "the conversion or transfer of assets for the purpose of disguising or concealing the illicit origin of those assets or for aiding any person who is involved in the commission of the offense from which the assets are derived to avoid the legal consequences of his acts; the concealment or disguising of the true nature, origin, location, disposition, movement, or ownership of property; and the acquisition, possession, or use of property by a person who knows or should know that this property constitutes proceeds of a crime under the terms of this law."

The AML Law applies to a wide range of financial institutions, including banks, money changers, casinos, and real estate agents. Insurance companies are not covered, but they represent only a minimal factor in the Haitian economy. The AML Law requires natural persons and legal entities to verify the identity of all clients, record all transactions, including their nature and amount, and submit the information to the Ministry of Economy and Finance. Specifically, the AML Law requires financial institutions to establish money laundering prevention programs and to verify the identity of customers who open accounts or conduct transactions that exceed 200,000 gourdes (approximately $4,550). Banks are required to maintain records for at least five years and are required to present this information to judicial authorities and FIU officials upon request. Bank secrecy or professional secrecy cannot be invoked as grounds for refusing information requests from these authorities.

Since August 2000, Haiti, through Central Bank Circular 95, has required banks, exchange brokers, and transfer bureaus to obtain declarations identifying the source of funds exceeding 200,000 gourdes (approximately $4,550) or its equivalent in foreign currency. Covered entities must report these declarations to the UCREF on a quarterly basis. Failure to comply can result in fines up to 100,000

gourdes (approximately $2,275) or forfeiture of the bank's license. Unfortunately, large amounts of money do not flow through the official financial institutions that are governed by these regulations.

The UCREF is referenced in the AML Law and was created through an August 2000 circular by the Ministries of Justice and Public Security. The FIU officially opened in December 2003; however, it remains a fledgling entity. The UCREF has a new staff of eight persons, including police officers seconded to the unit to investigate suspicious transaction reports. The Caribbean Anti-Money Laundering Program (CALP) provided intensive training assistance for the investigators. Entities or persons are required to report to the UCREF any transaction involving funds that appear to be derived from a crime. Failure to report such transactions is punishable by more than three years' imprisonment. During 2004, UCREF seized $3 million related to money laundering offenses, and submitted three cases for prosecution. In 2004, though there are many pending arrest warrants for money laundering, there was only one arrest.

The AML Law has provisions for the forfeiture and seizure of assets; however, the government cannot declare the asset or business forfeited until there is a conviction, which does not happen often in Haiti. The judicial branch is the deciding organization, but seizures and use of seized assets is on an ad hoc basis. Over one million U.S. dollars were seized in drug-related investigations in 2004. Haiti is considering modifications to the law to strengthen the judicial procedure and asset seizure and forfeiture provisions.

Haiti has made little progress regarding terrorist financing. The government still has not passed legislation criminalizing the financing of terrorists and terrorism, nor has it signed the UN International Convention for the Suppression of the Financing of Terrorism. The AML Law provides for investigation and prosecution in all cases of illegally derived money. Under this law, terrorist finance assets may be frozen and seized. The commission printed and circulated to all banks the list of individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list. The Central Bank chaired meetings with all bank presidents and requested their cooperation.

UCREF has been gaining credibility since its official opening; it has concluded three Memoranda of Understanding with the Dominican Republic, Panama and Honduras. Though UCREF has applied for membership in the Egmont Group and hopes to be accepted in the upcoming July 2005 Plenary, it has not yet been accepted and accredited. Haiti is a member of the OAS/CICAD Experts Group to Control Money Laundering and the Caribbean Financial Action Task Force. Haiti is a party to the 1988 UN Drug Convention. Haiti has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption.

Presidential elections will be held in November 2005, and the incoming administration should work diligently and expeditiously to fully implement and enforce the AML Law. The Government of Haiti should criminalize terrorist financing and work toward becoming a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Honduras

Two years after passing a new law against money laundering, the Government of Honduras (GOH) has made considerable progress in implementing the law, establishing and training the entities responsible for the investigation of financial crimes, and improving cooperation among these entities. In 2004, the products of these efforts became apparent, with 16 arrests related to money laundering, the seizure of over $6 million in cash and goods, and the first five convictions for the crime of money laundering in Honduras' history. Sustained progress will depend upon increased commitment from the government to aggressively prosecute financial crimes.

Honduras is not an important regional or offshore financial center and is not considered to have a significant black market for smuggled goods, although there have been recent high-profile smuggling

cases involving gasoline and other consumer goods. Money laundering, however, does take place, primarily through the banking sector but also through currency exchange houses and front companies. While the operation of offshore financial institutions is prohibited, casinos remain unregulated. The vulnerabilities of Honduras to money laundering stem primarily from significant trafficking of narcotics, particularly cocaine, throughout the region; the smuggling of contraband may also generate funds that are laundered through the banking system. Money laundering in Honduras derives both from domestic and foreign criminal activity, and the proceeds are controlled by local drug trafficking organizations and organized crime syndicates. It is not a matter of government policy to encourage, facilitate, or engage in laundering, the proceeds from illegal drug transactions, terrorist financing, or other serious crimes; however, corruption remains a serious problem, particularly within the judiciary and law enforcement sectors.

Under Honduran legislation, companies may register for "free trade zone" status, and benefit from the associated tax benefits, regardless of their location in the country. Companies that wish to receive free trade zone status must register within the Office of Productive Sectors within the Ministry of Industry and Commerce. As of December 2004, there are 337 companies, both domestic and foreign, with free trade zone status operating in Honduras, mostly in the textile and apparel industry. There is no indication that these free trade zone companies are being used in trade-based money laundering schemes or by the financiers of terrorism.

In 2002, the National Congress of Honduras passed long-awaited legislation to widen the definition of money laundering and strengthen enforcement measures. Prior to the passage of Decree No. 45-2002, the Honduran anti-money laundering regime was based on Law No. 27-98 of 1998, which criminalized only the laundering of narcotics-related proceeds and introduced customer identification, record keeping, and reporting requirements for financial institutions. However, weaknesses in the law—including an extremely narrow definition of money laundering—made it virtually impossible to prosecute the crime of money laundering. Under Decree No. 45-2002, the Honduran anti-money laundering legislation was expanded to define the crime of money laundering to include any non-economically justified sale or movement of assets, as well as asset transfers connected with trafficking of drugs, arms, human organs, and people; auto theft; kidnapping; bank and other forms of financial fraud; and terrorism. The penalty for money laundering is a prison sentence of 15-20 years. The law includes banker negligence provisions that make individual bankers subject to two- to five-year prison terms for allowing money laundering activities to occur in their institutions. Decree No. 45-2002 also requires all persons entering or leaving Honduras to declare—and, if requested, present—cash and/or monetary instruments in their possession if the amount exceeds $10,000 or its equivalent.

Under Decree No. 45-2002, the Honduran financial intelligence unit, the Unidad de Información Financiera (UIF), was created within the National Banking and Securities Commission. Banks and other financial institutions are required to report to the UIF currency transactions over $10,000 in dollar denominated accounts or 200,000 lempiras (approximately $10,770) in local currency accounts. Obligated entities are also required to report all unusual or suspicious financial transactions to the UIF. These entities, which are supervised by the National Banking and Securities Commission, include state and private banks, savings and loan associations, bonded warehouses, stock markets, currency exchange houses, securities dealers, insurance companies, credit associations, and casinos. In addition to reporting suspicious transactions and transactions over the $10,000 threshold to the UIF, obligated entities are also required to implement client identification procedures and maintain registries of reported transactions for a minimum of five years.

Decree No. 45-2002 requires that a public prosecutor be assigned to the UIF. In practice, four prosecutors are assigned to the UIF, each on a part-time basis, with responsibility for specific cases divided among them depending on their expertise. The prosecutors, under urgent conditions and with special authorization, may subpoena data and information directly from financial institutions. Public

prosecutors and police investigators are permitted to use electronic surveillance techniques to investigate money laundering.

Under the Honduran Criminal Procedure Code, officials responsible for filing reports on behalf of covered entities are protected by law with respect to their cooperation with law enforcement authorities. However, some officials have alleged that their personal security is put at risk if the information they report leads to money laundering prosecutions. Officials from the Public Ministry (the Honduran equivalent of the U.S. Department of Justice); the National Banking and Insurance Commission; and the private-sector banking association, AHIBA, are looking into ways of treating testimony from these officials differently, in order to protect their identity.

Until 2004, there had been some ambiguity in Honduran legislation concerning the responsibility of banks to report information to the supervisory authorities, and the duty of these institutions to keep customer information confidential. A new law passed in September 2004, the Financial Systems Law (Decree No. 129-2004), clarifies this ambiguity, explicitly stating that the provision of information requested by regulatory, judicial, or other legal authorities shall not be regarded as an improper divulgence of confidential information.

Although there have been no changes or additions to Honduran money laundering or terrorist financing legislation in 2004, four laws—including the Financial Systems Law—were passed in September to strengthen the financial sector and reform the Central Bank and the National Banking and Insurance Commission. While these laws do not touch specifically on money laundering or terrorist financing, they improve the legal and operational capacity of Honduran authorities to regulate the banking sector, and should therefore strengthen their ability to detect and counteract money laundering or terrorist financing activities. While some bank officials and political figures objected to portions of these laws, the laws were developed overall through close consultation with representatives of the financial sector. This greatly supports these changes in their impact on greater clarity and effectiveness in regulatory functions.

Prior to 2004, there had been no successful prosecutions of money laundering crimes in Honduras. To date in 2004, however, Honduran authorities have arrested 16 persons for money laundering crimes, issued six additional outstanding arrest warrants, and secured five convictions. In April 2004, two Guatemalan citizens were caught crossing the border between Guatemala and Honduras carrying $247,000 in cash that was suspected to be linked to narcotics-trafficking. The two men were brought to trial in June; one was convicted and sentenced to 16 years in prison, while the other was found not guilty. This was the first conviction of a money laundering offense since Decree No. 45-2002 was passed in 2002.

In December 2002, the fishing vessel “Captain Ryan” was seized while departing a Honduran port and found to be carrying $467,000 in cash believed to be connected to drug trafficking. The Honduran citizens on board the boat were arrested. In June 2004, four of them were convicted of money laundering, while three others were found innocent and released. All four who were convicted are currently serving terms of 19 years in prison. The cash and other assets seized at the time of the arrest, including the boat, were ordered to be forfeited. Another person connected to the same case was apprehended in Panama by Panamanian authorities; his case is still being processed in the Panamanian judicial system.

In early 2004, a Honduran citizen was arrested and charged with running an illegal lottery scheme and laundering the proceeds. Honduran authorities seized approximately $1.6 million in cash and assets in connection with this investigation. However, defense attorneys filed a motion claiming that the seizure was unconstitutional; this motion has been referred to an appellate court. A denial of the motion is expected in early January 2005, and the case is expected to proceed to trial in February.

The National Congress enacted an asset seizure law in 1993 that subsequent Honduran Supreme Court rulings substantially weakened. Decree No. 45-2002 strengthens the asset seizure provisions of the law, establishing an Office of Seized Assets (OABI) under the Public Ministry. The law authorizes the OABI to guard and administer "all goods, products or instruments" of a crime, and states that money seized or money raised from the auctioning of seized goods should be transferred to the public entities that participated in the investigation and prosecution of the crime. Under the Criminal Procedure Code, when goods or money are seized in any criminal investigation, a criminal charge must be submitted against the suspect within 60 days of the seizure; if one is not submitted, the suspect has the right to demand the release of the seized assets. Decree No. 45-2002 is not entirely clear on the issue of whether a legitimate business can be seized if used to launder money derived from criminal activities. The chief prosecutor for organized crime maintains that the authorities do have this power, because once a "legitimate" business is used to launder criminal assets, it ceases to be "legitimate" and is subject to seizure proceedings. However, this authority is not explicitly granted in the law, and to date there has not yet been a case to set precedent.

The Office of Seized Assets has not yet established firm control over the asset seizure and forfeiture process. Implementation of the existing law, as well as the process of equipping the OABI to maintain control over seized assets and effectively dispose of them, has been slow and ineffective. The implementing regulations governing the OABI were not finalized and published until 2003. Plans to build separate offices and a warehouse for this entity are still incomplete, resulting in seized assets currently being kept in various locations under dispersed authority. Money seized is also kept in a variety of accounts without clear records of control, or kept in cash as evidence. Due to the absence of a clear chain of custody over seized cash, the Public Ministry on one occasion in 2004 used seized cash to pay certain employees' salaries, without the money's first having passed through a proper legal process for disposal.

Similarly, goods such as vehicles, properties and boats that are seized are in many cases left unused, rather than being distributed for use by government agencies. In one case in 2004, a house seized in connection with a narcotics-trafficking investigation was nominally put under the OABI's control, but was in fact left unguarded; as a result, the house was looted and severely damaged. Cases such as this one have led some police agencies—which do not have the proper resources to carry out their operations—to use these assets, again without having first passed through a legal process for their disposal. While these actions are contradictory to proper procedures set forth in the law, the OABI lacks the necessary autonomy or power to resist such actions because the OABI itself is under the Public Ministry. Furthermore, there is currently no external or independent audit of the OABI's activities to guarantee transparency and proper handling of seized assets.

The total value of assets seized in 2004 was $6.1 million, including $4.1 million in cash and $2 million in goods. This marks a significant increase over 2003 seizures, which included $2 million in cash and $584,000 in goods. Most of these seized assets are alleged to have derived from crimes related to narcotics-trafficking; none are suspected of having links to terrorist activity.

The GOH has been supportive of counterterrorism efforts. Decree No. 45-2002 states that an asset transfer related to terrorism is a crime; however, terrorist financing has not been identified as a crime itself. This law does not explicitly grant the GOH the authority to freeze or seize terrorist assets; however, under separate authority, the National Banking and Insurance Commission has issued freeze orders promptly for the organizations and individuals named by the UNSCR 1267 Sanctions Committee and those organizations and individuals on the list of Specially Designated Global Terrorists designated by the United States pursuant to Executive Order 13224 (on terrorist financing). The Ministry of Foreign Affairs is responsible for instructing the Commission to issue freeze orders. The Commission directs Honduran financial institutions to search for, hold, and report on terrorist-linked accounts and transactions, which, if found, would be frozen. The Commission has reported that,

to date, no accounts linked to the entities or individuals on the lists have been found in the Honduran financial system.

While Honduras is a major recipient of flows of remittances (estimated at $1.1 billion in 2004), there has been no evidence to date linking these remittances to the financing of terrorism. Remittances primarily flow from Hondurans living in the United States to their relatives in Honduras. Most remittances are sent through wire transfer or bank services, although it is likely that some cash is being transported physically from the U.S. to Honduras. There is no significant indigenous alternative remittance system operating in Honduras, nor is there any evidence that charitable or non-profit entities in Honduras have been used as conduits for the financing of terrorism.

The GOH cooperates with U.S. investigations and requests for information pursuant to the 1988 UN Drug Convention. Honduras has signed memoranda of understanding to exchange information on money laundering investigations with Panama, El Salvador, Guatemala, Mexico, Peru, Colombia, and the Dominican Republic. The GOH strives to comply with the Basel Committee's "Core Principles for Effective Banking Supervision," and the new Financial System Law, Decree No. 129-2004, is designed to improve compliance with these international standards At the regional level, Honduras is a member of the Central American Council of Bank Superintendents, which meets periodically to exchange information.

Honduras is a party to the United Nations Convention for the Suppression of the Financing of Terrorism, and in November 2004 Honduras became a party to the OAS Inter-American Convention on Terrorism. The GOH is also party to the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime, and in May 2004 signed the UN Convention against Corruption. Honduras is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering and the Caribbean Financial Action Task Force (CFATF).

In 2004, the Government of Honduras took positive steps to implement Decree No. 45-2002 by establishing and equipping the various government entities responsible for combating money laundering. However, there are only limited resources available for training officials, most of whom lack experience in dealing with money laundering issues. Further progress in implementing the new money laundering legislation will depend on the training and retention of personnel familiar with money laundering and financial crimes, clearer delineation of responsibility between different government entities, and improved ability and willingness of the Public Ministry to aggressively investigate and prosecute financial crimes. Honduras should continue to support the developing government entities responsible for combating money laundering and other financial crime, and ensure that resources are available to strengthen its anti-money laundering regime. Honduras should also criminalize terrorist financing, and ensure full implementation and proper oversight of its asset forfeiture program.

Hong Kong

Hong Kong is a major international financial center. Its low taxes and simplified tax system, sophisticated banking system, the availability of secretarial services and shell company formation agents, and the absence of currency and exchange controls, facilitate financial activity but also make it vulnerable to money laundering. The primary sources of laundered funds are narcotics-trafficking (particularly heroin, methamphetamines, and ecstasy), tax evasion, fraud, illegal gambling and bookmaking, and commercial crimes. Laundering channels include Hong Kong's banking system, and its legitimate and underground remittance and money transfer networks.

Hong Kong is substantially in compliance with the Financial Action Task Force's (FATF) Forty Recommendations on Money Laundering, and has pledged to adhere to the Revised Forty FATF

Recommendations. Overall, Hong Kong has developed a strong anti-money laundering regime, though improvements should be made. It is a regional leader in anti-money laundering efforts. Hong Kong has been a member of the FATF since 1990. It served as President of the FATF for the 2001/2002 term and served on the FATF's Steering Group from 2001 to 2003.

Money laundering is a criminal offense in Hong Kong under the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRoP) and the Organized and Serious Crimes Ordinance (OSCO). The money laundering offense extends to the proceeds of drug-related and other indictable crimes. Money laundering is punishable by up to 14 years' imprisonment and a fine of HK$5,000,000 ($643,000).

Money laundering ordinances apply to all persons, including banks and non-bank financial institutions, as well as to intermediaries such as lawyers and accountants. All persons must report suspicious transactions of any amount to the Joint Financial Intelligence Unit (JFIU). The JFIU does not investigate suspicious transactions itself, but receives, stores, and disseminates suspicious transactions reports (STRs) to the appropriate investigative unit. Typically, STRs are passed to either the Narcotics Bureau or the Organized Crime and Triad Bureau of the Hong Kong Police Force, or to the Customs Drug Investigation Bureau of the Hong Kong Customs and Excise Department.

Financial regulatory authorities issue anti-money laundering guidelines reflecting the revised set of FATF Forty Recommendations to institutions under their purview, and monitor compliance through on-site inspections and other means. Hong Kong law enforcement agencies provide training and feedback on suspicious transaction reporting.

Financial institutions are required to know and record the identities of their customers and maintain records for five to seven years. Hong Kong law provides that the filing of a suspicious transaction report shall not be regarded as a breach of any restrictions on the disclosure of information imposed by contract or law. Remittance agents and money changers must register their businesses with the police and keep customer identification and transaction records for cash transactions equal to or over $2,564 (HK$20,000).

Hong Kong does not require reporting of the movement of currency above a threshold level across its borders, or reporting of large currency transactions above a threshold level. However, the Narcotics Division is drafting a bill for the legislature's consideration in 2005, that would authorize Hong Kong Customs officials to stop and question passengers about money they are bringing into or taking out of Hong Kong. The draft bill will also mandate that Customs officials maintain records of individuals carrying more than $15,000 across the border, even if it is not related to a crime.

The bill will not mandate currency declarations at the border, but will widen the Hong Kong Government's ability to seize cash being laundered from all "serious crimes," instead of only cash stemming form narcotics-trafficking or related to terrorism. Under the bill, bankers, lawyers, accountants, real estate agents, precious metals dealers, and other professionals may face criminal sanctions if they assist in money laundering through a failure to "know their customers." The new bill will involve a statutory requirement to obtain sufficient information about the client—including the beneficial ownership of corporate clients and the source of wealth of individuals. This measure extends beyond current regulations, which already make the failure to report suspicious transactions an offense.

There is no distinction made in Hong Kong between onshore and offshore entities, including banks, and no differential treatment is provided for nonresidents, including on taxes, exchange controls, or disclosure of information regarding the beneficial owner of accounts or other legal entities. Hong Kong's financial regulatory regimes are applicable to residents and nonresidents alike. The Hong Kong Monetary Authority (HKMA) regulates banks. The Insurance Authority and the Securities and Futures Commission regulate insurance and securities firms, respectively. All three impose licensing

requirements and screen business applicants. There are no legal casinos or Internet gambling sites in Hong Kong.

In Hong Kong, it is not uncommon to use solicitors and accountants, acting as company formation agents, to set up shell or nominee entities to conceal ownership of accounts and assets. Hong Kong is a global leader in registering international business companies (IBCs), with nearly 500,000 registered in 2002. Many of the IBCs created in Hong Kong are owned by other IBCs registered in the British Virgin Islands. Many of the IBCs are established with nominee directors. The concealment of the ownership of accounts and assets is ideal for the laundering of funds. Additionally, some banks permit the shell companies to open bank accounts based only on the vouching of the company formation agent. However, solicitors and accountants have filed a low number of suspicious transaction reports in recent years, and have become a focus of attention to improve reporting, as a result.

The open nature of Hong Kong's financial system has long made it the primary conduit for funds being transferred out of China, which maintains a closed capital account. Hong Kong's role has been evolving as China's financial system gradually opens. On February 25, 2004, Hong Kong banks began to offer Chinese currency- (renminbi or RMB-) based, deposit, exchange, and remittance services. Later in the year, Hong Kong banks began to issue RMB-based credit cards, which could be used both in mainland China and in Hong Kong shops that had signed up to the Chinese payments system, China UnionPay. This change brought many financial transactions related to China out of the money-transfer industry and into the more highly regulated banking industry, which is better equipped to guard against money laundering.

Under the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRoP) and the Organized and Serious Crimes Ordinance (OSCO), a court may issue a restraining order against a defendant's property at or near the time criminal proceedings are instituted. Both ordinances were strengthened in January 2003, through a legislative amendment lowering the evidentiary threshold for initiating confiscation and restraint orders against persons or properties suspected of drug trafficking. Property includes money, goods, real property, and instruments of crime. A court may issue confiscation orders at the value of a defendant's proceeds from illicit activities. Cash imported into or exported from Hong Kong that is connected to narcotics trafficking may be seized, and a court may order its forfeiture.

As of November 1, 2004, the value of assets under restraint was $171 million, and the value of assets under confiscation order, but not yet paid to the government, was $14.36 million, according to figures from the JFIU. It also reported that as of November 1, 2004, the amount confiscated and paid to the government since the enactment of DTRoP and OSCO was $49.5 million, and a total of 119 persons had been convicted of money laundering over that period. Hong Kong has shared confiscated assets with the United States.

In July 2002, the legislature passed several amendments to the DTRoP and OSCO to strengthen restraint and confiscation provisions. These changes, which became effective on January 1, 2003, include the following: there is no longer a requirement of actual notice to an absconded offender; there is no longer a requirement that the court fix a period of time in which a defendant is required to pay a confiscation judgment; the court is allowed to issue a restraining order against assets upon the arrest (rather than charging) of a person; the holder of property is required to produce documents and otherwise assist the government in assessing the value of the property; and an assumption is created under the DTRoP, to be consistent with OSCO, that property held within six years of the period of the violation by a person convicted of drug money laundering is proceeds from that money laundering.

Since legislation was adopted in 1994 mandating the filing of suspicious transaction reports (STRs), the number of STRs received by JFIU has continually increased. In the first ten months of 2004, a total of 12,006 STRs were filed, compared to a total of 11,671 for the twelve months of 2003.

A new Financial Investigations Division, established in the Narcotics Bureau, is supporting the investigations of STRs. The new division contains a section dedicated to money laundering investigations related to drug trafficking and terrorist financing. The division provides the main link with overseas and local law enforcement agencies on investigations and intelligence exchange concerning money laundering and terrorist finance. It also contains the JFIU, including a new intelligence analysis team.

The new division will analyze STRs to develop information that could aid in prosecuting money laundering cases, the number of which has also increased since 1996, soon after the passage of OSCO (1994). In terms of actual prosecutions for money laundering, there were 40 during the first 10 months of 2004, compared to 29 for the entire year of 2003.

In July 2002, Hong Kong's legislature passed the United Nations (Anti-Terrorism Measures) Ordinance that criminalizes the supply of funds to terrorists. On July 3, 2004, the Legislative Council passed the United Nations (Anti-Terrorism Measures)(Amendment) Ordinance. This law is intended to implement UNSCR 1373 and the FATF Special Nine Recommendations on Terrorist Financing that were in place in July, 2004. It extends the Hong Kong Government's freezing power beyond funds to the non-fund property of terrorists and terrorist organizations. Furthermore, it prohibits the provision or collection of funds by a person intending or knowing that the funds will be used in whole or in part to commit terrorist acts. Hong Kong's financial regulatory authorities have directed the institutions they supervise to conduct record searches for terrorist assets, using U.S. Executive Order 13224 and the UNSCR 1267 Sanctions Committee's consolidated list.

The People's Republic of China represents Hong Kong on defense and foreign policy matters, including UN affairs. After the PRC becomes a party to a UN terrorism treaty, the Hong Kong Government submits implementing legislation to Hong Kong's Legislative Council. After passage, the HKG executes the relevant UN treaty. The PRC has yet to ratify the UN International Convention for the Suppression of the Financing of Terrorism.

In 2004, Hong Kong financial authorities arranged outreach activities to raise awareness of terrorism financing in the financial community. For instance, Hong Kong's bank regulatory agency, the Hong Kong Monetary Authority (HKMA) issued a new supplementary guideline in June 2004 on the latest "know your customer" principles, taking into account the October 2001 Basel Committee on Banking Supervision. The guideline also incorporates the FATF Special Nine Recommendations on Terrorist Financing and Hong Kong's new United Nations (Anti-Terrorism) Ordinance. The instruction also requires banks to verify fund sources, before accepting money from any of: offshore companies established with the intention of disguising beneficial ownership, correspondent banks from FATF-designated non-cooperative countries or territories, and prominent politicians and heads of state.

The new rule also requires banks to maintain a database of terrorist names, and requires management information systems that detect unusual patterns of activity in customer accounts. The Securities and Futures Commission (SFC) and the Office of the Commissioner of Insurance (OCI) are revising their guidance notes on the prevention of money laundering and terrorist financing, to reflect the new requirements in the revised FATF Forty Recommendations and international securities and insurance guidance. The Hong Kong government has modified its regulations in order to make its regulations consistent with the revised FATF recommendations.

Other bodies governing segments of the financial sector are also active in anti-money laundering efforts. The Hong Kong Estates Agents Authority, for instance, has drawn up specific guidelines for real estate agents on filing suspicious transaction reports, and the Law Society of Hong Kong and the Hong Kong Institute of Certified Public Accountants are in the process of drafting such guidance.

In a major 2004 money laundering case, a High Court jury charged two of six defendants in a case involving $2.6 billion-$3.8 billion laundered annually for five years. The Hong Kong Independent

Commission against Corruption (ICAC) alleged that the Guardecade Money Changing firm had collected funds from mainland Chinese commercial tax evaders and had transferred the proceeds to accounts in Hong Kong and overseas. One of the defendants, who worked in a bank, was acquitted of money laundering, but was found guilty of bribery by the High Court. The High Court will retry two other of the acquitted defendants. The trial will begin February 17, 2005.

The Hong Kong police also assisted the United States in terrorism investigations in 2004. In 2003, Hong Kong took part in the International Monetary Fund's Financial Sector Assessment Program (FSAP), which aims to strengthen the financial stability of a jurisdiction by identifying the strengths and weaknesses of its financial system and assessing compliance with key international standards. As part of the FSAP, a team of IMF and World Bank-sponsored legal and financial experts assessed the effectiveness of Hong Kong's anti-money laundering regime against the FATF Forty Recommendations and the FATF Special Nine Recommendations on Terrorist Financing. The team described Hong Kong's anti-money laundering measures as "resilient, sound, and overseen by a comprehensive supervisory framework."

Through the PRC, Hong Kong is subject to the 1988 UN Drug Convention. It is an active member of the FATF and Offshore Group of Banking Supervisors and also a founding member of the APG. Hong Kong's banking supervisory framework is in line with the requirements of the Basel Committee on Banking Supervision's "Core Principles for Effective Banking Supervision." Hong Kong's JFIU is a member of the Egmont Group and is able to share information with its international counterparts. Hong Kong cooperates closely with foreign jurisdictions in combating money laundering.

Hong Kong's mutual legal assistance agreements provide for the exchange of information for all serious crimes, including money laundering, and for asset tracing, seizure, and sharing. Hong Kong signed and ratified a mutual legal assistance agreement with the United States that came into force in January 2000.

As of December 2004, Hong Kong had mutual legal assistance agreements with a total of 16 other jurisdictions: Australia, Canada, the United States, Italy, the Philippines, the Netherlands, Ukraine, Singapore, Portugal, Ireland, France, the United Kingdom, New Zealand, the Republic of Korea, Belgium, and Switzerland. Hong Kong has also signed surrender-of-fugitive-offenders agreements with 13 countries, and has signed transfer-of-sentenced-persons agreements with seven countries, including the United States.

Hong Kong authorities exchange information on an informal basis with overseas counterparts, with Interpol, and with Hong Kong-based liaison officers of overseas law enforcement agencies. An amendment to the Banking Ordinance in 1999 allows the HKMA to disclose information to an overseas supervisory authority about individual customers, subject to conditions regarding data protection. The HKMA has entered into memoranda of understanding with overseas supervisory authorities of banks for the exchange of supervisory information and cooperation, including on-site examinations of banks operating in the host country.

The Government of Hong Kong should further strengthen its anti-money laundering regime by establishing threshold reporting requirements for currency transactions and putting into place "structuring" provisions to counter evasion efforts. Hong Kong should also establish mandatory cross-border currency reporting requirements and continue to encourage more suspicious transaction reporting by lawyers and accountants, as well as by business establishments such as auto dealerships, real estate companies, and jewelry stores. Hong Kong should also take steps to thwart the use of "shell" companies, IBCs, and other mechanisms that conceal the beneficial ownership of accounts by more closely regulating corporate formation agents.

Hungary

Hungary has a pivotal location in Central Europe, with a well-developed financial services industry. Criminal organizations from Russia and other countries such as Ukraine, which shares part of its border with Hungary, are entrenched in Hungary. The economy is largely cash-based. Money laundering is related to a variety of criminal activities, including narcotics, prostitution, and organized crime. Financial crime has not increased in recent years, though there have been isolated, albeit well-publicized cases, some of which are still ongoing. Combating cross-border criminal activities is a priority for Hungary's law enforcement community.

Hungary became a full member of the European Union (EU) on May 1, 2004. Upon EU accession, all EU regulations became effective immediately in Hungary. As a full EU member, Hungary also is working to implement EU Directives, including those relating to money laundering. Hungary had been placed on the Financial Action Task Force (FATF) list of non-cooperative countries and territories (NCCT) in the fight against money laundering in June 2001, but was removed completely from this list in the summer of 2003 due to significant improvements in its money laundering regime. Since then, it has strived to implement the FATF Forty Recommendations and Special Recommendations on Terrorist Financing.

Hungary banned offshore financial centers by Act CXII of 1996 on Credit Institutions. Offshore casinos are also prohibited from operating by the 1996 Act. There are offshore companies registered in Hungary that enjoy a preferential tax rate and are exempt from the local corporate turnover tax of two percent. Due to EU accession, however, the preferential tax treatment is being phased out and will cease at the end of 2005. Beginning in 2006, these companies will be converted automatically into Hungarian companies, subject to all Hungarian corporate taxes. The only special status they will thereafter retain is the ability to keep books in foreign currencies.

Act CXX of 2001 eliminated bearer shares and required that all such shares be transferred to identifiable shares by the end of 2003. In Hungary, all shares are dematerialized, and both owners and any beneficiaries must be registered.

By mid-2003, Hungary had successfully transferred 90 percent of anonymous savings accounts into identifiable accounts. As of December 31, 2004, such accounts can be converted only by written permission from the police.

Hungary no longer permits the operation of free trade zones. Law CXXVI of 2003 stipulates that permits for companies operating in free trade zones would expire, but allowed companies to request new permits that would convert them into normal companies in the early part of 2004. The companies affected could transfer their assets until the end of April 2004 without a value-added tax (VAT) or customs duty. Upon Hungary's EU accession on May 1, these companies' operations immediately came under EU Council Regulation 2913/1992 and the European Commission Regulation 2454/1992. Currently, there are no companies operating in free trade zones. The Finance Ministry, however, is planning to propose new free trade zones.

Anti-money laundering legislation in Hungary dates back to Act XXIV of 1994. Money laundering related to all serious crimes punishable by imprisonment is a criminal offense. In 2003, the Government of Hungary (GOH) re-codified this legislation in Act XV of 2003, "On the Prevention and Impeding of Money Laundering," which became effective on June 16, 2003. The 2003 Act extends the anti-money laundering legislation to encompass the following additional professions and business sectors: financial services, investment services, insurance, stock brokers, postal money transfers, real estate agents, auditors, accountants, tax advisors, gambling casinos, traders of gems or other precious metals, private voluntary pension funds, lawyers, and public notaries. Act XV also criminalizes tipping off and forces self-regulating professions to submit internal rules to identify asset holders, track transactions, and report suspicious transactions. In April 2002, Section 303 of the Penal

Code on Money Laundering was amended to criminalize as punishable offenses the laundering of one's own proceeds, laundering through negligence, and conspiracy to commit money laundering.

Hungary's financial regulatory body, the Hungarian Financial Supervisory Authority (HFSA), is charged with supervising all types of financial services providers. The one exception to this is cash processing, which is supervised by Hungary's Central Bank, the National Bank of Hungary. Auditors, casinos, lawyers, and notaries are supervised by their own trade associations. The Hungarian National Police (HNP) supervises all other professions covered under the 2003 Act, because they have neither self-regulatory professional bodies nor state supervision.

The 2003 Act also states that if an individual carries currency exceeding 1 million HUF (approximately $5,300) across a border, the amount must be declared in writing to the customs authority. Customs authorities are also obligated to establish the identity of an individual crossing the border if any suspicion of money laundering arises.

As of 2001, only banks or their authorized agents can operate currency exchange booths. These exchange booths are subject to "double supervision", as they are subject to the banks' internal control mechanisms, which are in turn subject to supervision by the HFSA. The exchange booths are required to file suspicious transaction reports (STRs) for amounts exceeding 300,000 HUF (approximately $1,600). These amounts can come either from a single transaction or consecutive separate transactions exceeding this threshold. There are currently about 300 exchange booths in Hungary.

The 2003 Act also states that covered service providers are required to identify their customers or any authorized individual representing their customers, when entering into a business relationship. In transactions exceeding 2 million HUF (approximately $10,600) or transactions of any amount where suspicion of money laundering arises, the customer must be identified. Under the anti-money laundering legislation, banks, financial institutions, and other service providers are required to maintain records for at least ten years. All of the service providers are required to report suspicious transactions directly, or through their representation bodies, to the police authority as soon as they occur. Lawyers and notaries are exempt from their reporting obligations only when they are representing their clients in a criminal court case. Under all other circumstances, they are obligated to file reports. Both lawyers and notaries submit their reports to their respective bar and notary associations, who then forward the reports on to the police. All other service providers submit their reports directly to the police. The police may perform on-site random checks of service providers. Hungary has no bank secrecy laws that would prevent disclosure of client or ownership information to law enforcement authorities.

When these professions were included in the anti-money laundering legislation of 2003, there were some initial concerns and protests as to how the legislation would be put into practice. As the police briefed representatives of these professions and rules were adopted, the concerns have diminished. Currently, only antique shops are known still to have concerns, although they are believed to be meeting their reporting obligations.

Reporting individuals are protected in their anti-money laundering reporting obligations. If the report involves suspicious activity related to terrorist financing, the law allows for the possibility of protection. But, currently, actual extension of protection is granted at the discretion of the prosecutor.

Hungary's Financial Intelligence Unit (FIU) is part of the HNP. It investigates money laundering cases and has considerable authority to request and release information, nationally and internationally. In the summer of 2004, the HNP completed a major organizational restructuring, which included the establishment of the National Bureau of Investigation (NBI). Among its mandates, the NBI is charged with the detection and investigation of major corruption and money laundering cases. One of the main objectives of this restructuring was to eliminate the parallel jurisdictions that existed between the Financial Crime Investigation and Economic Crime Investigation areas and to implement a more

coordinated investigative effort for money laundering investigations. The combined Economic and Financial Crimes Department of the NBI has a staff of 134 at the headquarters level. The FIU within this department has a staff of 42. In 2004, it received 14,120 STRs. An increase in the number of investigators has helped the FIU investigate cases.

In 2003, a money laundering scandal broke involving a Hungarian subsidiary, K&H Equities, of a Dutch-owned bank. A broker apparently skimmed funds from some clients in order to pad the returns of other more favored clients. Money was laundered through several banks as well as some foreign nationals. The police are still investigating the case. After it was discovered that bank tellers had failed to file STRs in the K&H case, "banker negligence" laws were enacted that made individual bankers responsible if their institutions launder money. This has resulted in over-reporting, according to the FIU.

The Hungarian Criminal Code, Act XIX of 1998, and amended by Act II of 2003, contains a provision on the forfeiture of assets. Under this provision, assets that were used to commit crimes, would endanger public safety, or were created as a result of criminal activity, are subject to forfeiture. All property related to criminal activity during the period of time when the owner was a party to a criminal organization can be seized, unless proven to have been obtained in good faith as due compensation. Act II of 2003 states that persons or members of criminal organizations sponsoring activities of a terrorist group by providing material assets or any other support face five to fifteen years of imprisonment.

The Hungarian Criminal Code treats terrorist financing-related crimes differently than all other crimes. For all other crimes, the police freeze the assets and must then inform the bank within 24 hours as to whether there will be an investigation. Police investigations must be completed within two years of filing charges. Forfeiture and seizure for all crimes, including terrorist financing, is determined by a court ruling. The banking community has cooperated fully with enforcement efforts to trace funds and seize/freeze bank accounts. In all cases, some of the frozen assets may be released, for example, to cover health-related expenses or basic sustenance, if the FIU approves a written request from the owner of the assets. After subtracting any related civil damages, proceeds from asset seizures and forfeitures go to the government.

Act IV of 1978, Article 261, criminalizes terrorist acts. Hungary criminalizes terrorism and all forms of the financing of terrorism by Act II of 2003, which modifies Criminal Code Article 261. This includes providing funds or collecting funds for terrorist actions or facilitating or supporting such actions by any means. The penalty for such crimes is imprisonment of five to fifteen years.

Hungary can also freeze terrorist finance-related assets. Act XIX of 1998 on Criminal Procedures, Articles 151, 159, and 160, provide for the immediate seizure of terrorist assets. In cases where terrorist financing is suspected, banks freeze the assets and then promptly notify HFSA and the FIU. There is no time limit as to when the FIU must then inform the bank of whether it is conducting a police investigation. The GOH circulates to its financial institutions the names of individuals and entities that have been included on the UNSCR 1267 Sanctions Committee's consolidated list as well as those that the U.S. Government and the EU have designated under relevant authorities. In 2003, there was one arrest for terrorist financing, when a foreigner attempted to donate to a charitable organization listed on the UN's consolidated list of terrorists. The bank immediately froze the assets, but the individual was deported from the country without the case going to trial. In 2004, there was one suspected case of terrorist financing. Assets were frozen in a bank account that received a transfer from a bank in Saudi Arabia. However, the court ruled that the recipient of the funds could not be judged guilty solely on the basis of receiving funds from an entity on the UN's consolidated list of suspected terrorists.

Act CXII of 1996 on Credit Institutions bans the use of any indigenous alternative remittance systems that bypass, in whole or in part, financial institutions. In cases where money is transferred to a

charitable or non-profit entity, the GOH has proven it will freeze the assets regardless of the amount, as was true in the one notable case in 2003.

Hungary is party to a Mutual Legal Assistance Treaty with the United States, and signed, in January 2000, a non-binding information-sharing arrangement with the United States, which is intended to enable U.S. and Hungarian law enforcement to work more closely to fight organized crime and illicit transnational activities. In furtherance of this goal, in May 2000, Hungary and the U.S. Federal Bureau of Investigation established a joint task force to combat Russian organized crime groups. Hungary has signed bilateral agreements with 41 other countries to cooperate in combating terrorism, drug-trafficking, and organized crime.

Hungary is a member of the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and underwent a second round mutual evaluation in 2001. Hungary's FIU has been a member of the Egmont Group since 1998.

In 2000, Hungary signed and ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. Hungary is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. The GOH signed the UN Convention against Corruption on December 10, 2003.

The Government of Hungary has made progress in developing its anti-money laundering regime, however, Hungary should continue its efforts with respect to financial supervision and prosecution. Hungary should improve the effectiveness of its prosecutions by further training prosecutors, judges, and police so that it may successfully prosecute money laundering cases.

Iceland

Money laundering is not considered a major problem in Iceland. A 1997 amendment to the criminal code criminalizes money laundering regardless of the predicate offense, although the maximum penalty for money laundering is greater when it involves drug trafficking. The Icelandic Penal Code specifies that sentences be determined based on the worst crime. Therefore, if a case involves both drug offenses and money laundering, the sentence will be based on the laws that concern the drug case. In cases that concern money laundering activities only, the maximum sentence is ten years' imprisonment.

Iceland based its money laundering law on the Financial Action Task Force's (FATF's) Forty Recommendations. In 1999, Iceland amended its 1993 Act on Measures to Counteract Money Laundering (MCML). The amendments increase the number and types of occupations and individuals that fall under the anti-money laundering law. The amendment also applies due diligence laws to all banks, non-banking financial institutions, and intermediaries (such as lawyers and accountants). There are provisions in the law that allow for a fine or imprisonment for up to two years for failure to comply.

In 2003, two additional amendments were made to counteract money laundering. The first amendment is based on the European Union Directive and requires the National Commissioner of Police to provide the public with general information and advice on how to detect money laundering and suspicious transactions. Additionally, the first amendment requires banks and financial institutions to pay special attention to non-cooperative countries and territories (NCCTs) that do not follow international recommendations on money laundering. The Financial Supervisory Authority (FME), the main supervisor of the Icelandic financial sector, is to publish announcements and instructions if special caution is needed in dealing with any such country or territory.

The second amendment to the MCML moves the responsibility of the National Registry of Firms from the Icelandic Statistical Office to the Internal Revenue Directorate. This amendment imposes new

obligations on legal entities to provide greater information about their activities when registering, and increases the measures that Icelandic authorities can take to enforce the MCML. The FME has indicated that the MCML may be revised during 2005 as a result of the new European Union (EU) directive on money laundering and revised FATF recommendations.

The MCML requires banks and other financial institutions, upon opening an account or depositing assets of a new customer, to have the customer prove his or her identity by presenting personal identification documents. Additionally, if the individual is not a regular customer, the financial institution is required to obtain proof of identification for transactions in excess of 15,000 euros (approximately $20,000). The financial institutions may also request identification for transactions under the reporting requirement if the transaction is of a suspicious nature.

Financial institutions record the name of every customer who seeks to buy or sell foreign currency. All records necessary to reconstruct significant transactions are maintained for at least seven years. Employees of financial institutions are protected from civil or criminal liability for reporting suspicious transactions. The MCML requires that banks and other financial institutions report all suspicious transactions to the Economic Crime Division of the National Commissioner of Police, Iceland's Financial Intelligence Unit (FIU).

Suspicious transaction reporting (STRs) is on the rise in Iceland, but the authorities believe this increase is due to increased training of bank employees, better cooperation between authorities and financial institutions, and an increased awareness of the importance of the issue. Although there were no money laundering regulatory or legislative changes during 2004, the enforcement capability has increased with the addition of an officer assigned to the FIU. The FIU is expanding the training provided to financial institutions to include those working at financial intermediaries such as lawyers and accountants. The FIU received 163 STRs in the first 11 months of 2002, 213 STRs in 2003, and 276 STRs in 2004. One company in the currency exchange business was responsible for 17 percent of all STRs filed in 2003. This operation was taken over by one of the commercial banks so stricter oversight will apply. The majority of the STRs filed in 2004 originated from commercial banks and financial institutions. In addition, one STR was filed by a lawyer and another was filed by the Customs authority. Eighty percent of the STRs filed were narcotics-related and 20 percent were filed for suspicious financial transactions.

The first successful prosecution under the money laundering law occurred in 2000. Five additional cases were tried in 2001, all of which resulted in convictions; three were appealed to the Supreme Court where the convictions were upheld. There were no prosecutions in 2002. In 2003 two cases were tried and resulted in convictions, one of which was appealed to the Supreme Court where the decision has not yet been rendered. There were no prosecutions in 2004.

Iceland's FIU is the primary government agency responsible for asset seizures. According to Iceland's Code on Criminal Procedure, if there is suspicion of criminal activity the FIU can take measures such as freezing or seizing funds. There are no significant obstacles to asset seizure, as long as the FIU, when requesting such measures, can demonstrate a reasonable suspicion of illegal activity to the court. The FME and the FIU make every effort to enforce existing drug-related asset seizure and forfeiture laws. In recent years, asset seizure has become quite common in embezzlement crimes, while only a small fraction of total asset seizures has related to money laundering. Under the Icelandic Penal Code, any assets confiscated on the basis of money laundering investigations must be delivered to the Icelandic State Treasury. There have been no instances of the U.S. or any other government's requesting seized assets from Iceland. If such a situation arose, the sharing of seized assets with another government would only become possible if new legislation were drafted for this specific purpose.

The Parliament of Iceland passed comprehensive domestic legislation that specifically criminalizes terrorism and terrorist acts, and requires the reporting of suspected terrorist-linked assets and

transactions involving possible terrorist operations or organizations. In March 2003, an amendment to the Law on Official Surveillance on Financial Operations was passed. It strengthens Iceland's ability to adhere to international money laundering and asset freezing initiatives and agreements. In accordance with international obligations or resolutions to which Iceland is a party, the FME shall publish announcements on individuals or legal entities (companies) whose names appear on the UNSCR 1267 Sanction Committee's consolidated list or on European Union clearinghouse list and whose assets or transactions Icelandic financial institutions are specifically obliged to report to authorities and freeze. Prior to the amendment the government had to publish the names of terrorist individuals and organizations in the National Gazette in order to make them subject to asset freezing. The government formally enacted financial freeze orders against individuals and entities on the UNSCR 1267 Sanction Committee's consolidated list. Government of Iceland (GOI) officials have said they will consider applying their terrorist asset freeze strictures against U.S.-only designated entities (i.e., names not on UN or EU lists) on a case-by-case basis. To date, Iceland has discovered no terrorist-related assets or financial transactions.

When dealing with other European Economic Areas (EEA) member countries, the FME can disclose confidential information to their supervisory authorities, provided that this sharing constitutes an act of law enforcement cooperation and is beneficial for conducting investigations of suspicious money laundering activities, and information provided is kept confidential by the receiving countries' authorities as prescribed by law. Concerning requests for information from countries outside of the EEA, the FME may, on a case-by-case basis, disclose to supervisory authorities information under the same conditions of confidentiality. To date there have been no requests from either EEA or non-EEA countries for an exchange of information concerning suspected acts of money laundering.

There is currently no agreement (or discussions toward one) between Iceland and the United States to exchange information concerning financial investigation, and no Mutual Legal Assistance Treaty (MLAT). The National Commissioner of Police has acted on tips from foreign law enforcement agencies in the investigation of money laundering activities, and the process of international cooperation with the law enforcement authorities of other countries appears to work smoothly.

Iceland is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; and the UN International Convention for the Suppression of the Financing of Terrorism. Iceland has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Iceland is party to several multilateral conventions on terrorism and rules of territorial jurisdiction, including the 1977 European Convention on the Suppression of Terrorism. Iceland is a member of the FATF, and its financial intelligence unit is a member of the Egmont Group.

The Government of Iceland should continue to enhance its anti-money laundering/counterterrorist financing regime. If it has not already done so in its 2003 legislation, Iceland should specifically criminalize the financing of terrorism and terrorists.

India

India's status as a growing regional financial center, the existence of a large system of informal cross-border money flows (hawala), and widely perceived tax avoidance make India vulnerable to money laundering activities. India is a major drug-transit country. Some common sources of illegal proceeds in India are narcotics-trafficking, trade in illegal gems (particularly diamonds), smuggling, trafficking in persons, corruption, and income tax evasion.

India's historically strict foreign-exchange laws, transaction reporting requirements, and the banking industry's know-your-customer policy make it difficult for criminals to use banks or other financial institutions to launder money. Large portions of illegal proceeds are accordingly laundered through the

alternative remittance system called "hawala" or "hundi." The hawala market is estimated at anywhere between 20 and 50 percent of the formal market. Remittances to India reported through legal, formal channels in 2003-2004 amounted to $18 billion.

Under the hawala system, individuals transfer funds or other items of value from one country to another, often without the actual movement of currency. Among its advantages, the system: provides anonymity and security; permits individuals to convert one currency into another; and lets them convert narcotics, gold, or trade items into currency. Anecdotal evidence suggests that many Indians do not trust banks and prefer to avoid the lengthy paperwork required to complete a money transfer through a financial institution. Hawala dealers can provide the same service with little or no documentation and at rates less than those charged by banks. The Government of India (GOI) neither regulates hawala dealers nor requires them to register with the government; the Reserve Bank of India (RBI), the country's Central Bank, argues that hawala dealers cannot be registered or regulated because the system (though widespread) is illegal. The RBI does intend to increase its regulation of non-bank money transfer operations such as currency exchange kiosks and wire transfer services.

Historically, gold has been one of the most important commodities involved in Indian hawala transactions. There is a widespread cultural demand for gold in the region (India liberalized its gold trade restrictions in the mid-1990s). In recent years, it is believed that the growing Indian diamond trade has also been increasingly important in providing countervaluation or a method of "balancing the books" in external hawala transactions. Invoice manipulation (for example, inaccurately reflecting the value of a good sold on the invoice) is pervasive and is used extensively to both avoid customs duties and taxes and to launder illicit proceeds through trade-based money laundering.

Tax evasion is also widespread. Changes in the tax system are gradually being implemented, as the GOI now requires individuals to use a personal identification number to pay taxes, purchase foreign exchange, and apply for passports. The GOI plans to introduce a nation-wide value added tax in 2005. Such a tax would replace a basket of complicated state sales taxes and excise taxes, thus reducing the incentive and opportunities for businesses to conceal their sales or income levels.

The Criminal Law Amendment Ordinance allows for the attachment and forfeiture of money or property obtained through bribery, criminal breach of trust, corruption, or theft, and of assets that are disproportionately large in comparison to an individual's known sources of income. The 1973 Code of Criminal Procedure, Chapter XXXIV (Sections 451-459), establishes India's basic framework for confiscating illegal proceeds. The Narcotic Drugs and Psychotropic Substances Act (NDPS) of 1985, as amended in 2000, calls for the tracing and forfeiture of assets that have been acquired through narcotics-trafficking, and prohibits attempts to transfer and conceal those assets. The Smugglers and Foreign Exchange Manipulators Act (SAFEMA) also allows the seizure and forfeiture of assets linked to Customs Act violations. The competent authority (CA), located in the Ministry of Finance (MOF), administers both the NDPSA and SAFEMA.

The 2001 amendments to the NDPSA allow the CA to immediately seize any asset owned or used by a narcotics trafficker upon arrest; previously, assets could be seized only after conviction. However, Indian law enforcement officers lack training in the procedures for identifying individuals who might be subject to asset seizure/forfeiture, and in tracing assets to be seized. They also need training in drafting and expeditiously implementing asset freezing orders. The Foreign Exchange Management Act (FEMA), which was enacted in 2000, is one of the GOI's primary tools for fighting money laundering. The FEMA's objectives include the establishment of controls over foreign exchange, the prevention of capital flight, and the maintenance of external solvency. FEMA also imposes fines on unlicensed foreign exchange dealers. A closely related piece of legislation is the Conservation of Foreign Exchange and Prevention of Smuggling Act (COFEPOSA), which provides for preventive detention in smuggling and other matters relating to foreign exchange violations. The Ministry of

Finance's Enforcement Directorate enforces FEMA and COFRPOSA. The RBI also plays an active role in the regulation and supervision of foreign exchange transactions.

On November 27, 2002, the lower house of Parliament finally passed the Prevention of Money Laundering Act (PMLA), which had first been introduced in 1998. The bill was amended in August 2002 by the upper house to include terrorist financing provisions. India's President signed the law in January 2003. This legislation criminalizes money laundering, establishes fines and sentences for money laundering offenses, imposes reporting and record keeping requirements on financial institutions, provides for the seizure and confiscation of criminal proceeds, and provides for the creation of a Financial Intelligence Unit (FIU). However, the implementing rules and regulations for the PMLA had not been promulgated as of the end of December 2004.

In November 2004, the Indian Cabinet gave its approval for setting up the FIU, which will be an independent unit within the MOF's Central Economic Intelligence Bureau (CEIB). The FIU is expected to become operational in early 2005 and will reportedly have both intelligence and investigative wings. India's new FIU will seek to join the Egmont Group. Until the new FIU becomes fully operational, the CEIB will continue to serve as the GOI's leading organization for fighting financial crime. In this capacity, it receives suspicious transactions reports, of which there is a backlog, according to GOI officials in late 2003. The Central Bureau of Investigation, the Directorate of Revenue Intelligence, Customs, and Excise, the RBI, the Competent Authority, and the MOF are also active in anti-money laundering efforts. In 2004, the Directorate of Revenue Intelligence (DRI) referred four hawala-based money laundering cases with a U.S. nexus to the U.S. Department of Homeland Security/Immigration and Customs Enforcement.

Many banking institutions, prompted by the RBI, have taken steps on their own to combat money laundering. Many banks have compliance officers to ensure that existing anti-money laundering regulations are observed. The RBI issued a notice in 2002 to commercial banks instructing them to adopt the know-your-customer rule. The Indian Bankers Association established a working group to develop self-regulatory anti-money laundering procedures. Foreign customers applying for accounts in India must show positive proof of identity when opening a bank account. Banks also require that the source of funds must be declared if the deposit is more than the equivalent of $10,000. Finally, banks must report suspicious transactions. The GOI has the power to order banks to freeze assets. In November 2004, the RBI issued a circular updating its know-your-customer guidelines to ensure that they comply with all Financial Action Task Force (FATF) recommendations. The RBI has asked all commercial banks to become FATF-compliant for existing as well as new accounts by December 2005. The guidelines include the requirement that banks identify politically connected account holders residing outside India and identify the source of funds before accepting deposits from these individuals. The RBI has placed politically exposed persons (those entrusted with prominent public functions in other countries) in the highest risk category for the commission of financial crimes.

India does not have an offshore financial center but does license offshore banking units (OBUs). These OBUs are required to be predominantly owned by individuals of Indian nationality or origin resident outside India and include overseas companies, partnership firms, societies and other corporate bodies. OBUs must also be audited to affirm that ownership by a nonresident Indian is not less than 60 percent. These entities are susceptible to money laundering activities, in part because of a lack of stringent monitoring of transactions in which they are involved. Finally, OBUs must be audited financially, but the firm that does the auditing does not have to have government approval.

India is a party to the 1988 UN Drug Convention, and is a member of the Asia/Pacific Group on Money Laundering. It is a signatory to, but has not yet ratified, the UN Convention against Transnational Organized Crime. India became a party to the UN International Convention for the Suppression of the Financing of Terrorism in April 2003. In October 2001, India and the United States signed a mutual legal assistance treaty, which the U.S. Senate ratified in November 2002. India took

steps in 2003 to move towards ratification of the treaty; ratification was expected in early 2004 but has been delayed. India has also signed a police and security cooperation protocol with Turkey, which among other things provides for joint efforts to combat money laundering.

The GOI maintains tight controls over charities, which are required to register with the RBI. In April 2002, the Indian Parliament passed the Prevention of Terrorism Act (POTA), which criminalizes terrorist financing. In March 2003, the GOI announced that it had charged 32 terrorist groups under the POTA and had notified three others that they were involved in what were considered illegal activities. In July 2003, the GOI announced that it had arrested 702 persons under the POTA. In November 2004, the Parliament repealed the POTA and amended the 1967 Unlawful Activities (Prevention) Act to include the POTA's salient elements, including the criminalization of terrorist financing and the legal definitions for terrorism and terrorist acts. A GOI/POTA review committee will have one year to review all 333 pending POTA cases, after which time any case that is not resolved will be dismissed.

Terrorist financing in India, as well as in much of the subcontinent, is linked to the hawala system. The Government of India should cooperate fully with international initiatives to provide increased transparency in hawala, and, if necessary, should increase law enforcement actions in this area. Indian citizens' involvement in the underworld of the international diamond trade should be examined. India should pursue efforts to join the FATF. It also needs to quickly finalize the implementing regulations to the anti-money laundering law and establish the new FIU in order to enhance information sharing with its counterparts around the world. Meaningful tax reform will also assist in negating the popularity of hawala and lessen money laundering. Increased enforcement action should also be taken to combat invoice manipulation and trade-based money laundering. India should ratify the UN Convention against Transnational Organized Crime.

Indonesia

Although neither a regional financial center nor an offshore financial haven, Indonesia is vulnerable to money laundering and terrorist financing due to a poorly regulated financial system, the lack of effective law enforcement and widespread corruption.

Most money laundering in the country is connected to non-drug criminal activity such as gambling, prostitution, bank fraud or corruption. Indonesia also has a long history of smuggling, facilitated by thousands of miles of un-patrolled coastline and a law enforcement system riddled with corruption. The proceeds of these illicit activities are easily parked offshore and only repatriated as required for commercial and personal needs.

The Financial Action Task Force (FATF) included Indonesia on the list of non-cooperating countries and territories (NCCT) at its June 2001 plenary. The designation was based on the following: Indonesia had no basic set of anti-money laundering provisions, money laundering was not a criminal offense, there was no reporting of suspicious transactions to a Financial Intelligence Unit (FIU), and recently introduced customer identification requirements only applied to banks. The U.S. Treasury Department issued an advisory to all U.S. financial institutions instructing them to "give enhanced scrutiny" to all transactions involving Indonesia; the advisory is still in effect. Based on the Government of Indonesia's (GOI) progress in addressing its concerns, the FATF plans to conduct an on-site visit to Indonesia in early 2005.

In April 2002, Indonesia passed Law No. 15 on Criminal Acts of Money Laundering, Indonesia's anti-money laundering (AML) law, which made money laundering a criminal offense. The law identifies 15 predicate offenses related to money laundering, including narcotics trafficking and most major crimes. The law provides for the establishment of a Financial Intelligence Unit (FIU), the Center for Reporting and Analysis of Financial Transactions (PPATK), to develop policy and regulations to

combat money laundering. The PPATK was established in December 2002 and has been operational since October 2003.

The PPATK is an independent agency that receives, maintains, analyzes, and evaluates currency and suspicious financial transactions, provides advice and assistance to relevant authorities, and issues publications. As of December 2004, the PPATK has received over 1,200 suspicious transaction reports (STRs) from banks and non-bank financial institutions and referred 237 STRs to the police. The police have investigated a number of cases and referred 36 to the Attorney General. Indonesia has successfully prosecuted one money laundering case and two criminal cases predicated on money laundering offences. In September 2003, Parliament passed an Amending Law to the 2002 Anti-Money Laundering Law that addressed many FATF concerns. Based on this substantial progress, the FATF invited Indonesia to submit an Anti-Money Laundering Regime Implementation Plan in February 2004. The Amending Law provides a new definition of the crime of money laundering making it an offense for anyone to deal intentionally with assets known or reasonably suspected to constitute proceeds of crime with the purpose of disguising or concealing the origins of the assets, as seen in Articles 1(1) and 3. The Amending Law removes the threshold requirement for proceeds of crime and expands the definition of proceeds of crime to cover assets employed in terrorist activities. Article 1(7)(c) expands the scope of regulations requiring STRs to include attempted or unfinished transactions. Article 12A introduces a scheme of administrative sanctions (in addition to criminal sanctions) for failure to file STRs. Article 13(2) shortens the time to file an STR to three days or less after the discovery of an indication of a suspicious transaction. Article 17A makes it an offense to disclose information about the reported transactions to third parties, which carries a maximum of five years' imprisonment and a maximum of one billion rupiah (approximately $111,000). Articles 44 and 44A provide for mutual legal assistance, with the ability to provide assistance using the compulsory powers of the court. Article 44B imposes a mandatory obligation on the PPATK to implement provisions of international conventions or international recommendations on the prevention and eradication of money laundering.

Bank Indonesia (BI), the Indonesian Central Bank, issued Regulation No. 3/10/PBI/2001, "The Application of Know Your Customer Principles," on June 18, 2001. This regulation requires banks to obtain information on prospective customers, including third party beneficial owners, and to verify the identity of all owners, with personal interviews if necessary. The regulation also requires banks to establish special monitoring units and appoint compliance officers responsible for implementation of the new rules and to maintain adequate information systems to comply with the law. Finally, the regulation requires banks to analyze and monitor customer transactions and report to the BI within seven days any "suspicious transactions" in excess of Rp 100 million (approximately $11,100). The regulation defines suspicious transactions according to a 39-point matrix that includes key indicators such as unusual cash transactions, unusual ownership patterns, or unexplained changes in transactional behavior. The BI specifically requires banks to treat as suspicious any transactions to or from countries "connected with the production, processing and/or market for drugs or terrorism."

Until recently, banks and other financial institutions did not routinely question the sources of funds or require identification of depositors or beneficial owners. Financial reporting requirements were put in place only in the wake of the financial crisis when the GOI became interested in controlling capital flight and recovering foreign assets of large-scale corporate debtors or alleged corrupt officials. The BI has issued an Internal Circular Letter No. 6/50/INTERN, dated September 10, 2004 concerning Guidelines for the Supervision and Examination of the Implementation of KYC and AML by Commercial Banks. In addition, BI also issued a Circular Letter to Commercial Banks No. 6/37/DPNP dated September 10, 2004 concerning the Assessment and Imposition of Sanction on the Implementation of KYC and other Obligation Related to Law on Money Laundering Crime. The BI is also preparing Guidelines for Money Changers on Record Keeping and Reporting Procedures and Money Changer Examinations given by BI examiners.

Currently, banks must report all foreign exchange transactions and foreign obligations to the BI. Individuals who import or export more than Rp 50 million in cash (approximately $5,550) must report such transactions to Customs. The PPATK is currently drafting presidential decrees that would protect individuals and witnesses who cooperate with law enforcement entities on money laundering cases. Indonesia's bank secrecy law covers information on bank depositors and their accounts. Such information is generally kept confidential and can only be accessed by the authorities in limited circumstances. However, Article 27(4) of the AML Law now expressly exempts the PPTAK from "the provisions of other laws related to bank secrecy and the secrecy of other financial transactions" in relation to its functions in receiving and requesting reports and conducting audits of providers of financial services. In addition, Article 14 of the AML law exempts providers of financial services from bank secrecy provisions when carrying out their reporting obligations, and Article 15 of the AML law gives providers of financial services, their official and employees protection from civil or criminal action in making such disclosures.

Indonesia's laws provide only limited authority to block or seize assets. Under BI regulations 2/19/PBI/2000, police, prosecutors, or judges may order the seizure of assets of individuals or entities that have been either declared suspects, or indicted for a crime. This does not require the permission of BI, but, in practice, for law enforcement agencies to identify such assets held in Indonesian banks, BI's permission would be required. In the case of money laundering as the suspected crime, however, bank secrecy laws would not apply, according to the anti-money laundering law. The PPATK has also signed seven memoranda of understanding (MOUs) to assist in financial intelligence information exchange with the following entities: Bank Indonesia, the Capital Market Supervisory Agency (Bapepam), the Directorate General of Financial Institutions, Directorate General of Tax, the Center for International Forestry Research, and the Anti-Corruption Agency.

The GOI does have the authority to trace and freeze assets of individuals or entities on the UNSCR 1267 Sanctions Committee's consolidated list, and through the BI, has circulated the consolidated list to all banks operating in Indonesia, with instructions to freeze any such accounts. The interagency process to issue freeze orders, which includes the Foreign Ministry, Attorney General, and BI, takes several weeks from UN designation to bank notification. The GOI, to date, reports that it has not found any assets of entities or individuals on the consolidated list.

The October 18, 2002, emergency counterterrorism regulation, the Government Regulation in Lieu of Law of the Republic of Indonesia (Perpu), No. 1 of 2002 on Eradication of Terrorism criminalizes terrorism and provides the legal basis for the GOI to act against terrorists, including the tracking and freezing of assets. The Perpu provides a minimum of three years and a maximum of 15 years imprisonment for anyone who is convicted of intentionally providing or collecting funds that are knowingly used in part or in whole for acts of terrorism. This regulation is necessary because Indonesia's anti-money laundering law criminalizes the laundering of "proceeds" of crimes, but it is often unclear to what extent terrorism generates proceeds. In October 2004, an Indonesian court convicted and sentenced one Indonesian to four years in prison on terrorism charges connected to his role in the financing of the August 2003 bombing of the Jakarta Marriott Hotel.

The GOI has just begun to take into account alternative remittance systems or charitable or nonprofit entities in its strategy to combat terrorist finance and money laundering. The PPATK has issued guidelines for non-bank financial service providers and money remittance agents on the prevention and eradication of money laundering and the identification and reporting of suspicious and other cash transactions.

Indonesia is a member of the Asia/Pacific Group on Money Laundering (APG) and the Bank for International Settlements. The BI claims that it voluntarily follows the Basel Committee's "Core Principles for Effective Banking Supervision." The GOI is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Indonesia has signed, but not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism.

In June 2004, Indonesia became a member of the Egmont Group and, as such, is bound to share financial intelligence with other members in accordance with the organization's charter. The AML law contains specific provisions (Article 44 and 44 A) that provide for mutual legal assistance with respect to money laundering cases. The Ministry of Justice and Human Rights has produced a draft Mutual Legal Assistance (MLA) Law that now awaits the President and Parliament's approval. Until this legislation is formally passed, the GOI uses informal procedures to facilitate MLA from other states. The PPATK has memorandums of understanding with Thailand, Malaysia, Republic of Korea, Philippines, Romania, and Australia. The PPATK has also entered into an Exchange of Letters enabling international exchange with Hong Kong. As the Chair of the ninth ASEAN Summit, Indonesia has launched a plan of action, which includes establishing a Mutual Legal Assistance Treaty among ASEAN countries. The Indonesian Regional Law Enforcement Cooperation Centre was created to develop the operational law enforcement capacity needed to fight transnational crimes.

The Government of Indonesia should continue its steady progress in developing a credible and effective anti-money laundering regime. In particular, it must improve interagency cooperation in investigating and prosecuting cases. In this regard, Indonesia should review the adequacy of its Code for Criminal Procedure and Rules of Evidence and enact legislation to allow the use of modern techniques to enter evidence in court proceedings. Indonesia should also enact mutual legal assistance legislation as soon as possible and cooperate closely with other countries in providing and receiving this assistance. Indonesia should review and streamline its process for reviewing UN designations and identifying, freezing and seizing terrorist assets. Indonesia should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. It should ratify the UN Convention against Transnational Organized Crime.

Iran

The U.S. Department of State has designated Iran as a State Sponsor of Terrorism. Iran is not a regional financial center. Iran has a robust underground economy and the use of alternative remittance systems to launder money is widespread. The underground economy is spurred—in part—by attempts to avoid restrictive taxation. In 2003, a prominent Iranian banking official was quoted as estimating that money laundering encompasses 20 percent of Iran's economy and that the under-development of financial institutions leads to an imbalance in financial markets causing underground financial activities to flourish. Further, Iran's real estate market is used to launder money. Real estate transactions take place in Iran, but often no funds change hands there; rather, payment is made overseas. This is typically done because of the difficulty in transferring funds out of Iran and the weakness of Iran's currency, the rial.

Hawala is also used to transfer value to and from Iran. Factors contributing to the widespread use of hawala are currency exchange restrictions and the large number of Iranian expatriates. The smuggling of goods into Afghanistan from Iran leads to a significant amount of trade-based money laundering. Goods purchased in Dubai are sent to one of many ports in southern Iran and then via land routes to other markets in Afghanistan and Pakistan. The goods imported into Iran and sent into Afghanistan are often part of the Afghan Transit Trade. Many of these goods are eventually found on the regional black markets. Iran is also a major transit route for opiates smuggled from Afghanistan.

In 2003, the Majlis (Parliament) passed an anti-money laundering act. The law includes customer identification requirements, mandatory record keeping for five years after the opening of accounts, and the reporting of suspicious activities. Iran is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

It does not have a law on terrorist financing. The Government of Iran should construct a viable anti-money laundering and terrorist financing regime that adheres to international standards. It should ratify the UN Convention against Transnational Organized Crime. It should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism. It should not support terrorism or the funding of terrorism.

Iraq

Iraq's economy is cash-based. The two state-owned banks control 87 percent of the banking sector. However, the sector is growing and at least 10 new banks, both domestic and international, have been licensed to operate in Iraq.

The Coalition Provisional Authority (CPA), the international body that governed Iraq beginning in April 2003, issued Regulations and Orders that carried the weight of law in Iraq. The CPA ceased to exist in June 2004, at which time the Iraqi Interim Government assumed authority for governing Iraq. Drafted and agreed by Iraqi leaders, the Transitional Administrative Law (TAL) describes the powers of the Iraqi government during the transition period. The TAL will remain in effect until a duly elected government, operating under a permanent and legitimate constitution, comes into being. Under TAL Article 26, Regulations and Orders issued by the CPA pursuant to its authority under international law remain in force until rescinded or amended by legislation duly enacted and having the force of law.

CPA Order No. 93, "Anti-Money Laundering Act of 2004" (AML Act), criminalizes money laundering and terrorist financing and calls for penalties of imprisonment and/or fines. The AML Act covers banks; asset, investment fund and securities dealers/managers; insurance entities; money transmitters and foreign currency exchanges as well as persons who deal in financial instruments, precious metals or gems. Covered entities are required to verify the identity of any customer opening an account or conducting a transaction of more than five million Iraqi dinars. Beneficial owners must be identified upon account opening or for transactions exceeding ten million Iraqi dinars. Records must be maintained for at least five years. Covered entities must report suspicious transactions and wait for guidance before proceeding with the transaction; the relevant funds are frozen until guidance is received. Suspicious transaction reports (STRs) are to be completed for all transactions over four million Iraqi dinars that are believed to have a nexus to financial crime or terrorist financing. Tipping off is prohibited, and bank employees are protected from liability for cooperating with the government. Willful violations of the reporting requirement may result in imprisonment or fines.

CPA Order No. 94, "Banking Law of 2004," gives the Central Bank of Iraq (CBI) the authority to license banks and to conduct due diligence on proposed bank management. Order No. 94 establishes requirements for bank capital, confidentiality of records, audit and reporting requirements for banks, and prudential standards. CBI is responsible for the supervision of financial institutions. The CBI is mandated by the AML Act to issue regulations and require financial institutions to provide employee training, appoint compliance officers, develop internal procedures and controls to deter money laundering and establish an independent audit function. The AML Act provides that the CBI will issue guidelines on suspicious financial activities and conduct on-site examinations to determine institutions' compliance. The CBI also may issue regulations to require large currency transaction reports. The cross-border transport of currency of more than 15 million Iraqi dinars must be reported to the CBI. The CBI is also mandated by the AML Act to distribute the UNSCR 1267 Sanction Committee's consolidated list of individuals/entities associated with Usama bin Ladin or members of the Taliban or al-Qaida. Order No. 94 provides administrative enforcement authority to the CBI, up to and including the removal of institution management and revocation of bank licenses.

The AML Act calls for the establishment of the Money Laundering Reporting Office (MLRO) within the CBI. The MLRO is to be separately funded and operate independently to collect, analyze and disseminate information on financial transactions subject to financial monitoring and reporting,

including suspicious activity reports. The MLRO is also empowered to exchange information with other Iraqi or foreign government agencies.

The AML Act includes provisions for the forfeiture of criminal proceeds and instruments of crime. It also blocks any funds or assets, other than real property (which is covered by a separate regulation), belonging to members of the former Iraqi regime and authorizes the Minister of Finance to confiscate such assets following a judicial or administrative order. Confiscated property is transferred to the Development Fund for Iraq.

The Government of Iraq should ensure that any new legislation that either replaces or enhances the AML Act or the Banking Law meets current international standards. The new government should implement its laws as rapidly as possible and seek to become a full member of a FATF style regional body as the opportunity presents itself.

Ireland

The primary sources of funds laundered in Ireland are narcotics-trafficking, fraud, and tax offenses. Money laundering mostly occurs in financial institutions and bureaux de change. Additionally, investigations in Ireland indicate that some business professionals have specialized in the creation of legal entities, such as shell corporations, as a means of laundering money. Trusts are also established as a means of transferring funds from the country of origin to offshore locations. The use of shell corporations and trusts makes it more difficult to establish the true beneficiary of the funds, which makes it difficult to follow the money trail and establish a link between the funds and the criminal.

The use of solicitors, accountants, and company formation agencies in Ireland to create shell companies has been cited in a number of suspicious transaction reports (STRs), and in requests for assistance from Financial Action Task Force (FATF) members. Investigations have disclosed that these companies are used to provide a series of transactions connected to money laundering, fraudulent activity, and tax offenses. The difficulties in establishing the beneficial owner have been complicated by the fact that the directors are usually nominees and are often principals of a solicitors' firm or a company formation agency.

Money laundering relating to narcotics-trafficking and other offenses was criminalized in 1994. Financial institutions (banks, building societies, the Post Office, stockbrokers, credit unions, bureaux de change, life insurance companies, and insurance brokers) are required to report suspicious transactions and currency transactions exceeding approximately $15,000. The financial institutions are also required to implement customer identification procedures, and retain records of financial transactions. In 2003, Ireland amended its Anti-Money Laundering law to extend the requirements of customer identification and suspicious transaction reporting to lawyers, accountants, auditors, real estate agents, auctioneers, and dealers in high-value goods, thus aligning its laws with the European Union's Second Money Laundering Directive of 2001. The Irish Financial Services Regulatory Authority (IFSRA) supervises the financial institutions for compliance with money laundering procedures. The Central Bank reports to the Irish Police regarding institutions under its supervision. The reports cover failure to establish identity of customers, failure to retain evidence of identification, and failure to adopt measures to prevent and detect the commission of a money laundering offense. In addition to STRs, there are customs reporting requirements for anyone transporting more than 12,700 euros.

Ireland's international banking and financial services sector is concentrated in Dublin's International Financial Services Centre (IFSC). In 2004, approximately 430 international financial institutions and companies operated in the IFSC. Services offered include banking, fiscal management, re-insurance, fund administration, and foreign exchange dealing. The IFSRA regulates the IFSC companies that

conduct banking, insurance, and fund transactions. Tax privileges for IFSC companies have been phased out over recent years and will totally expire in 2005.

In 1999, the Corporate Law was amended to address problems arising from the abuse of Irish-registered nonresident companies (companies which are incorporated in Ireland, but do not carry out any activity in the country). The legislation requires that every company applying for registration must demonstrate that it intends to carry on an activity in the country. Companies must maintain at all times an Irish resident director or post a bond as a surety for failure to comply with the appropriate company law. In addition, the number of directorships that any one person can hold, subject to certain exemptions, is limited to 25. This is aimed at curbing the use of nominee directors as a means of disguising beneficial ownership or control.

In August 2001, the Government of Ireland (GOI) enacted the Company Law Enforcement Act 2001 (Company Act), to deal with problems associated with shell companies. The legislation establishes the Office of the Director of Corporate Enforcement (ODCE), whose responsibility it is to investigate and enforce the Company Act. The ODCE also has a general supervisory role in respect of liquidators and receivers. Under the law, the beneficial directors of a company have to be named. The Company Act also creates a mandatory reporting obligation for auditors to report suspicions of breaches of company law to the ODCE. In 2004, the ODCE had 20 prosecutions resulting in fines of varying amounts, two more than in 2003.

The Bureau of Fraud Investigation (BFI), Ireland's financial intelligence unit (FIU), analyzes financial disclosures. In 2003, a new Irish legal requirement went into effect, mandating obligated reporting institutions to file STRs with the Revenue (Tax) Department in addition to the BFI. Ireland estimates that up to 95 percent of STRs may involve tax violations. The Value Added Tax (VAT) fraud scams are the most prolific and have increased significantly in recent years. In 2004, the Criminal Assets Bureau took action in a number of such cases, the details of which are not yet available. The number of STRs filed decreased from 4,398 in 2002 to 4,254 in 2003. Convictions for money laundering offenses under the Criminal Justice Act totaled four in 2001 and two in 2002. In 2003, there were three prosecutions resulting in two convictions, currently awaiting sentencing. A conviction on charges of money laundering carries a maximum penalty of 14 years' imprisonment and an unlimited fine.

Under certain circumstances, the High Court can freeze, and, where appropriate, seize the proceeds of crimes. When criminal activity is suspected, the exchange of information between police and the Revenue Commissioner is authorized. The Criminal Assets Bureau (CAB) was established in 1996 to confiscate the proceeds of crime in cases where there is no criminal conviction. The CAB includes experts from Police, Tax, Customs, and Social Security Agencies. Under the Proceeds of Crime Act 1996, specified property may be frozen for a period of seven years, unless the court is satisfied that all or part of the property is not the proceeds of crime. Since 1996, the CAB has frozen over 50 million euros of assets. In 2003, the CAB collected 10 million euros in taxes against the proceeds of criminal activity. In 2003, the CAB also initiated criminal prosecutions against a number of suspects for breaches of criminal law, and proceeded with successful investigations/prosecutions for revenue and social welfare offenses previously not presented before the criminal courts.

In 2002, the GOI introduced the Criminal Justice (Terrorist Offenses) Bill targeting fundraisers for both international and domestic terrorist organizations. In December 2004, the Lower House of the Irish Parliament approved this bill, which is now awaiting Senate approval. The bill is expected to pass into law in February 2005. The Central Bank participates with the Irish Parliament subcommittee in drafting guidance notes for regulated institutions on combating and preventing terrorist financing. These notes will be finalized and issued to institutions upon the passing of the pending bill.

Enactment of the bill will pave the way for later ratification of the UN International Convention for the Suppression of the Financing of Terrorism, which will extend the existing powers of the GOI to seize property and/or other financial assets belonging to groups suspected of involvement with the financing

of terrorism. The bill will allow the Irish National Police to apply to the courts to freeze assets where certain evidentiary requirements are met. Ireland has reported to the European Commission the names of seven individuals, including one in 2004, who maintained a total of nine accounts that were frozen in accordance with the provisions of the European Union's (EU) Anti-Terrorist Legislation. The aggregate value of the funds frozen is approximately 90,000 euros.

In 2003, a money laundering investigation concerning a bureau de change operation uncovered evidence of the laundering of terrorist funds derived from international smuggling. Substantial cash payments into the bureau de change were not reflected in the principal books, records, and bank account. The bureau de change held a large cash reserve that was drawn upon when necessary by members of the terrorist organization. The bureau de change remitted payments from its legitimate bank account to entities in other jurisdictions, on behalf of the terrorist organization.

In January of 2001, Ireland and the United States signed a Mutual Legal Assistance in Criminal Matters Treaty (MLAT); however, it is not yet in force. An extradition treaty between Ireland and the United States is in force. Ireland is a member of the EU, the Council of Europe and the FATF. The FIU is a member of the Egmont Group. Ireland has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. Ireland 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.

Expeditious enactment of the pending counterterrorist funding bill, full implementation of its anti-money laundering law amendments, plus stringent enforcement of all such initiatives, will ensure that Ireland maintains an effective anti-money laundering program. Ireland should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. The Government of Ireland also should ensure that its offshore sector is adequately supervised and should require the beneficial owners and nominee directors of shell companies and trusts to be properly identified.

Isle of Man

The Isle of Man (IOM) is a Crown Dependency of the United Kingdom located between England and Ireland in the Irish Sea. Its large and sophisticated financial center is potentially vulnerable to money laundering at the layering and integration stages.

As of September 30, 2004, the IOM's financial industry consists of approximately 19 life insurance companies, 25 insurance managers, more than 177 captive insurance companies, more than 17.2 billion pounds (approximately $32.7 billion) in life insurance funds and 5.6 billion pounds (approximately $10.6 billion) in non-life insurance funds under management, 53 licensed banks and two licensed building societies, 82 investment business license holders, 30.1 billion pounds (approximately $57.2 billion) in bank deposits, and 164 collective investment schemes with 6.5 billion pounds (approximately $12.4 billion) of funds under management. There are also 171 licensed corporate service providers, with approximately another seven seeking licenses.

Money laundering related to narcotics-trafficking was criminalized in 1987. The Prevention of Terrorism Act 1990 made it an offense to contribute to terrorist organizations, or to assist a terrorist organization in the retention or control of terrorist funds. In 1998, money laundering arising from all serious crimes was criminalized. Financial institutions and professionals such as banks, fund managers, stockbrokers, insurance companies, investment businesses, credit unions, bureaux de change, check cashing facilities, money transmission services, real estate agents, auditors, casinos, accountants, lawyers, and trustees are required to report suspicious transactions and comply with the requirements of the anti-money laundering (AML) code, such as customer identification.

The Financial Supervision Commission (FSC) and the Insurance and Pension Authority (IPA) regulate the IOM financial sector. The FSC is responsible for the licensing, authorization, and supervision of

banks, building societies, investment businesses, collective investment schemes, corporate service providers, and companies. In 2005, the FSC is expected to become the regulatory body for trust service providers. The IPA regulates insurance companies, insurance management companies, general insurance intermediaries, and retirement benefit schemes and their administrators. In addition, the FSC also maintains the Company Registry Database for the IOM, which contains company records dating back to the first company incorporated in 1865. Statutory documents filed by IOM companies can now be searched and purchased online through the FSC's website.

Instances of failure to disclose suspicious activity would result in both a report's being made to the Financial Crimes Unit (FCU), the IOM's financial intelligence unit (FIU), and possible punitive action by the regulator, which could include revoking the business license. To assist license holders in the effective implementation of anti-money laundering techniques, the regulators hold regular seminars and additional workshop training sessions in partnership with the FCU and the Isle of Man Customs and Excise.

In December 2000, the FSC issued a consultation paper, jointly with the Crown Dependencies of Guernsey and Jersey, called "Overriding Principles for a Revised Know Your Customer Framework," to develop a more coordinated approach on anti-money laundering. Further work between the Crown Dependencies is being undertaken to develop a coordinated strategy on money laundering, to ensure compliance as far as possible with the revised Financial Action Task Force (FATF) Forty Recommendations. The IOM is also assisting the FATF Working Groups considering matters relating to customer identification and companies' issues.

New regulations were introduced in August 2002, that require money service businesses (MSBs) that are not already regulated by the FSC or IPA to register with Customs and Excise. This has the effect of implementing, in relation to MSBs, the 1991 EU Directive on Money Laundering, revised by the Second Directive 2001/97/EC, and provides for their supervision by Customs and Excise to ensure compliance with the AML Codes.

The IPA, as regulator of the IOM's insurance and pensions business, issues Anti-Money Laundering Standards for Insurance Businesses (the "Standards"). The Standards are binding upon the industry and include the Overriding Principles. These include a requirement that all insurance businesses check their whole book of businesses to determine that they have sufficient information available to prove customer identity. The current set of Standards became effective March 31, 2003. In addition, the IPA conducts on-site visits to examine procedures and policies of companies under its supervision.

The IOM introduced the Online Gambling Regulation Act 2001 and an accompanying AML (Online Gambling) Code 2002. The Act, Regulations, and dedicated AML Code are supplemented by AML guidance notes issued by the Gambling Control Commission, a regulatory body which provides more detailed guidance on the prevention of money laundering through the use of online gambling. The Online Gambling legislation brought regulation to what was technically an unregulated gaming environment. The dedicated Online Gambling AML Code was at the time unique within this segment of the gambling industry.

The Companies, Etc. (Amendment) Act 2003 received Royal Assent on December 9, 2003. A provision that took effect in December 2003 calls for additional supervision for all licensable businesses, e.g., banking, investment, insurance and corporate service providers. The act further provides that no future bearer shares will be issued after April 1, 2004, and all existing bearer shares must be registered before any rights relating to such shares can be exercised.

The FCU, formed on April 1, 2000, evolved from the police Fraud Squad and now includes both police and customs staff. It is the central point for the collection, analysis, investigation, and dissemination of suspicious transaction reports (STRs) from obligated entities. The entities required to report suspicious transactions include banks/financial institutions; bureaux de change; casinos; post

offices; lawyers, accountants, advocates, and businesses involved with investments; insurance; real estate; gaming/lotteries; and money changers. The FIU received 1,727 STRs in 2002, 1,920 in 2003 and 2,250 in 2004. The FCU maintains close relationships with the financial sector and regularly provides training presentations to it.

The Criminal Justice Acts of 1990 and 1991, as amended, extend the power to freeze and confiscate assets to a wider range of crimes, increase the penalties for a breach of money laundering codes, and repeal the requirement for the Attorney General's consent prior to disclosure of certain information. Assistance by way of restraint and confiscation of assets of a defendant is available under the 1990 Act to all countries and territories designated by Order under the Act, and the availability of such assistance is not convention-based nor does it require reciprocity. Assistance is also available under the 1991 Act to all countries and territories in the form of the provision of evidence for the purposes of criminal investigations and proceedings. Under the 1990 Act the provision of documents and information is available to all countries and territories for the purposes of investigations into serious or complex fraud. Similar assistance is also available to all countries and territories in relation to drug trafficking and terrorist investigations. All decisions for assistance are made by the Attorney General of the IOM on a case-by-case basis, depending on the circumstances of the inquiry. The law also addresses the disclosure of a suspicion of money laundering. Since June 2001, it has been an offense to fail to make a disclosure of suspicion of money laundering for all predicate crimes, whereas previously this just applied to drug- and terrorism-related crimes. The law also lowers the standard for seizing cash from "reasonable grounds" to believe that it was related to drug or terrorism crimes to a "suspicion" of any criminal conduct. The law also provides powers to constables, including customs officers, to investigate whether a person has benefited from any criminal conduct. These powers allow information to be obtained about that person's financial affairs. These powers can be used to assist in criminal investigations abroad as well as in the IOM.

The United Kingdom implemented the amendments to its Proceeds of Crime Act in 2004. The IOM is currently reviewing new legislation that will redo its Criminal Justice Act along similar lines. The new amendments are under consideration and are expected to come into force in late 2005 or early 2006.

The Customs and Excise (Amendment) Act 2001 gives various law enforcement and statutory bodies within the IOM the ability to exchange information, where such information would assist them in discharging their functions. The Act also permits Customs and Excise to release information it holds to any agency within or outside the IOM for the purposes of any criminal investigation and proceeding. Such exchanges can be either spontaneous or by request.

The Government of the IOM enacted the Anti-Terrorism and Crime Act, 2003. The purpose of the Act is to enhance reporting, by making it an offense not to report suspicious transactions relating to money intended to finance terrorism. The Act is expected to come into force on January 4, 2005. The IOM Terrorism (United Nations Measure) Order 2001 implements UNSCR 1373 by providing for the freezing of terrorist funds, as well as by creating a criminal offense with respect to facilitators of terrorism or its financing. All other UN and EU financial sanctions have been adopted or applied in the IOM, and are administered by Customs and Excise. Institutions are obliged to freeze affected funds and report the facts to Customs and Excise. The FSC's anti-money laundering guidance notes have been revised to include information relevant to terrorist events. The Guidance Notes were issued in December 2001. A further revision is scheduled to take place in 2005 to reflect changes in the appropriate international standards.

The IOM has developed a legal and constitutional framework for combating money laundering and the financing of terrorism. There appears to be a high level of awareness of anti-money laundering and counterterrorist financing issues within the financial sector, and considerable effort has been made to put appropriate practices into place. In November 2003, the Government of the IOM published the full report made by the International Monetary Fund (IMF) following its examination of the regulation and

supervision of the IOM's financial sector. In this report the IMF commends the IOM for its robust regulatory regime. The IMF found that "the financial regulatory and supervisory system of the Isle of Man complies well with the assessed international standards." The report concludes the Isle of Man fully meets international standards in areas such as banking, insurance, securities, anti-money laundering, and combating the financing of terrorism.

The IOM is a member of the Offshore Group of Banking Supervisors. The IOM is also a member of the International Association of Insurance Supervisors and the Offshore Group of Insurance Supervisors. The FCU belongs to the Egmont Group. The IOM cooperates with international anti-money laundering authorities on regulatory and criminal matters. Application of the 1988 UN Drug Convention was extended to the IOM in 1993.

Isle of Man officials should continue to support and educate the local financial sector to help it combat current trends in money laundering. The authorities also should continue to work with international anti-money laundering authorities to deter financial crime and the financing of terrorism and terrorists.

Israel

Israel is not a regional financial center. It primarily conducts financial activity with the financial markets of the United States and Europe, and to a lesser extent with Asia. A quarter of all Israeli money laundering or terrorist financing seizures are related to narcotics proceeds. The majority of the seizures are related to illegal gambling, fraud, and extortion. Israel does not have free trade zones and is not considered an offshore financial center.

Israel enacted the "Prohibition on Money Laundering Law" (PMLL) on August 8, 2000 (Law No. 5760-2000). The PMLL established a framework for an anti-money laundering system, but required the passage of several implementing regulations before the law could fully take effect. Among other things, the PMLL criminalized money laundering and included more than 18 serious crimes, in addition to offenses described in the prevention of terrorism ordinance, as predicate offenses for money laundering. The PMLL also authorized the issuance of regulations requiring financial service providers to identify, report, and keep records for specified transactions for seven years. In November 2000, Israel enacted the "Prohibition on Money Laundering (Reporting to Police)" regulation establishing mechanisms for reporting to the police transactions involving property that was used to commit a crime or that represented the proceeds of crime.

In addition, Israel adopted in 2001 the "Prohibition on Money Laundering (The Banking Corporations Requirement Regarding Identification, Reporting, and Record Keeping) Order". The Order establishes specific procedures for banks with respect to customer identification, record keeping, and the reporting of irregular and suspicious transactions. The PMLL requires the declaration of currency transferred (including cash, travelers' checks, and banker checks) into or out of Israel for sums above 80,000 new Israeli shekels (nis) (about $18,000). This applies to any person entering or leaving Israel and to any person bringing or taking money into or out of Israel by mail or by any other methods, including cash couriers. This offense is punishable by up to six months' imprisonment or a fine of nis 202,000 ($46,000), or ten times the amount that was not declared, whichever is higher. Alternatively, an administrative sanction of nis 101,000 ($23,000), or five times the amount that was not declared, may be imposed.

The PMLL also provided for the establishment of the Israeli Money Laundering Prohibition Authority (IMPA) as the country's Financial Intelligence unit (FIU). The IMPA became operational in February 2002. The PMLL requires financial institutions to report "unusual transactions" to IMPA as soon as possible under the circumstances—"unusual transactions" are loosely defined. The term is used so that the IMPA will receive reports even when the financial institution is unable to link the unusual transaction with money laundering.

In addition, suspicious transaction reporting is required of members of the stock exchange, portfolio managers, insurers or insurance agents, provident funds and companies managing a provident fund, providers of currency services, and the Postal Bank. The PMLL does not apply to intermediaries like lawyers and accountants.

In 2002, Israel enacted several new amendments to the PMLL that resulted in the addition of the money services businesses (MSB) to the list of entities required to file cash transaction reports (CTRs) and suspicious transaction reports (STRs), the establishment of a mechanism for customs officials to input into the IMPA database, the creation of regulations stipulating the time and method of bank reporting, and the creation of rules on safeguarding the IMPA database and rules for requesting and transmitting information between IMPA and Israeli National Police (INP) and the Israel Security Agency. The PMLL also authorized the issuance of regulations requiring financial service providers to identify, report, and keep records, for specified transactions for seven years.

In August 2003, the GOI passed a comprehensive amendment to the PMLL that lowered the threshold for reporting CTRs from nis 200,000 ($42,000) to nis 50,000 ($10,500), lowered the document retention threshold from nis 50,000 to nis 10,000 ($2,100), and imposed more stringent reporting requirements.

The PMLL mandates the registration of MSBs through the Providers of Currency Services Registrar at the Ministry of Finance. It is assumed that money laundering occurs in all types of financial institutions, especially MSBs. In 2004, Israeli courts convicted several MSBs for failure to register with the Registrar of Currency Services. In addition, several criminal investigations have been conducted against other currency-services providers, some of which have resulted in money laundering indictments, which are still pending. The closure of unregistered MSBs was a priority objective of the INP in 2004, and it raided at least 19 such locations. The INP and the Financial Service Providers Regulatory Authority maintain a high level of coordination, routinely exchange information, and have conducted multiple joint enforcement actions. In April 2004, the Bank of Israel fined five banks for violating the PMLL. The banks were found to be negligent with respect to their procedures for verifying the identities of new customers, because they did not require account holders to sign declarations of identity, share information with the money laundering authority, or report suspicious transactions.

In October 2004, six co-conspirators operating an exchange house were arrested for multiple structuring offenses involving over $230 million of funds that are believed to be from criminal syndicates. $2.5 million in criminal proceeds were seized. An indictment and forfeiture request are forthcoming. In December 2004, an indictment was brought against 25 members of a heroin trafficking organization in the Tel Aviv District Court. The indictment charges organized crime, kingpin, and money laundering offenses, and includes a forfeiture request against $2.5 million in criminal assets.

The Financial Action Task Force (FATF) removed Israel from the Non-Cooperative Countries and Treaties (NCCT) list in June 2002, because of its efforts to meet the FATF's recommendations. In June 2002, IMPA was admitted into the Egmont Group of financial intelligence units. A U.S. advisory issued by the Department of Treasury's Financial Crimes Enforcement Network in June 2000 to U.S. financial institutions, emphasizing the need for enhanced scrutiny of certain transactions and banking relationships in Israel to ensure that appropriate measures are taken to minimize risk for money laundering, was withdrawn in 2002.

On December 29, 2004, the Israeli Parliament adopted the Prohibition on Terrorist Financing (Law No. 5765/2004) to enhance Israel's ability to combat terrorist financing and to cooperate with other countries on such matters. Terrorist financing offenses are defined as predicate offenses under the law. Under the International Legal Assistance Law of 1998, Israeli courts are empowered to enforce forfeiture orders executed in foreign courts for crimes committed outside Israel. The new anti-money

laundering law has recently enhanced this ability. In 2002, Israeli and U.S. law enforcement cooperated as part of an "Operation Joint Venture," a long-term money laundering investigation focusing on an international Israeli network that launders cash proceeds from Colombian drug-trafficking organizations. The Israeli National Police have provided U.S. law enforcement with information on the network that has led to the arrest of six individuals, including two Colombian traffickers. The United States and Israel also have a Mutual Legal Assistance Treaty that entered into force in May of 1999.

Israel has established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets, as well as assets derived from or intended for other serious crimes, including the funding of terrorism. The identification and tracing of such assets is part of the ongoing function of the Israeli intelligence authorities and IMPA. In 2004, the INP seized approximately $27 million in suspected criminal assets. Three quarters of these assets were seized for money laundering offenses relating to fraud, illegal gambling, extortion, and prostitution; the rest relate to drug cases. Total seizures for each of the past three years were more or less the same, $23-26 million per year.

Israel is a party to the 1988 UN Drug Convention and the 1999 UN International Convention for the Suppression of the Financing of Terrorism. Israel signed the UN Convention against Transnational Organized Crime on December 13, 2000, but has not yet ratified it. In June 2003, the Knesset adopted the Combating Criminal Organizations Law, which includes comprehensive measures with regard to organized crime.

The Government of Israel continues to make progress in strengthening its anti-money laundering and terrorist financing regime in 2004. Israel has enacted new laws pertaining to combating terrorist financing, and continues to improve the role of its FIU. Israel should examine the misuse of the international diamond trade to launder funds. Israel should continue to enforce regulations pursuant to the PMLL and continue improving its anti-money laundering and counterterrorist financing regime through ensuring the diligent reporting of suspicious activities by banks and non-financial institutions. Israel should ratify the UN Convention against Transnational Organized Crime.

Italy

Italy is not an important regional or offshore financial center. However, money laundering is a concern both because of the prevalence of homegrown organized crime groups and the recent influx of criminal bands from abroad, especially from Albania, Romania, and Russia. Counternarcotics efforts are complicated by the heavy involvement in international narcotics-trafficking of domestic and Italian-based foreign organized crime groups. Italy is a consumer country and a major transit point for heroin coming from the Near East and Southwest Asia through the Balkans en route to Western/Central Europe and, to a lesser extent, the United States. Italian and ethnic Albanian criminal organizations work together to funnel drugs to and through Italy. Additional priority trafficking groups include other Balkan organized crime entities, as well as Nigerian, Dominican, and Colombian and other South American trafficking groups. In addition to the narcotics trade, laundered funds come from a myriad of criminal activities, such as alien smuggling, contraband cigarette smuggling, pirated goods, extortion, usury, and kidnapping. Financial crimes such as credit card and Internet fraud are increasing.

Money laundering occurs both in the regular banking sector and, more frequently, in the non-bank financial system, i.e., casinos, money transfer houses, and the gold market. Money launderers predominantly use non-bank financial institutions for the illicit export of currency—primarily U.S. dollars and euros—to be laundered in offshore companies. Significant amounts of international narcotics-trafficking proceeds generated in the United States are used for legitimate commercial transactions in Italy, which leads to a cycling of drug-tainted U.S. currency through the Italian

financial system. There is a substantial black market for smuggled goods in the country, but it is not funded significantly by narcotics proceeds.

Money laundering is defined as a criminal offense when it relates to a separate, intentional felony offense. All intentional criminal offenses are predicates to the crime of money laundering, regardless of the applicable sentence for the predicate offense. Italy has strict laws on the control of currency deposits in banks. Banks must identify their customers and record and report to the Italian exchange office (UIC)—Italy's financial intelligence unit (FIU)—any cash transaction that exceeds approximately $15,000. The Bank of Italy's mandatory guidelines require the reporting all suspicious cash transactions and other activity—such as a third party payment on an international transaction—on a case-by-case basis. These reports are submitted regularly. Italian law prohibits the use of cash or negotiable bearer instruments for transferring money in amounts in excess of approximately $15,000, except through authorized intermediaries/brokers.

Banks and other financial institutions are required to maintain for ten years records necessary to reconstruct significant transactions, including information about the point of origin of funds transfers and related messages sent to or from Italy. Banks operating in Italy must remit account data to a central archive controlled by the Bank of Italy. This archive was established for record keeping and financial oversight purposes, but has proved useful for tracking money laundering. A "banker negligence" law makes individual bankers responsible if their institutions launder money. The law protects bankers and others with respect to their cooperation with law enforcement and regulatory entities.

Italy has addressed the problem of international transportation of illegal-source currency and monetary instruments by applying the $15,000-equivalent reporting requirement to cross-border transport of domestic and foreign currencies and negotiable bearer instruments. Reporting is mandatory for cross-border transactions involving negotiable bearer monetary instruments (e.g., checks), but not for wire transfers; nevertheless, financial institutions are required to maintain a uniform anti-money laundering database for wire transfers and to submit this data on a monthly basis to the UIC. The UIC analyzes the data and can request specific transaction details if warranted. The Anti-Mafia Directorate is conducting a retrospective analysis of irregular and suspect money flows from organized crime groups and 19 countries of concern. In particular, the directorate is looking at the transfer of funds, incoming and outgoing, and their origins and destinations.

Because of these banking controls, narcotics-traffickers are using different ways of laundering drug proceeds. To deter nontraditional money laundering, the Government of Italy (GOI) has enacted a decree to broaden the category of institutions and professionals required to abide by anti-money laundering regulations. The list now includes debt collectors, exchange houses, insurance companies, casinos, real estate agents, brokerage firms, gold and valuables dealers and importers, antiques dealers, lawyers, and notaries. Although Italy now has comprehensive internal auditing and training requirements for its (broadly-defined) financial sector, implementation of these measures by non-bank financial institutions lags behind that of banks, as evidenced by the relatively low number of suspicious transaction reports (STRs) filed by non-bank financial institutions. According to UIC data, banking institutions submit 88 per cent of all STRs. Other financial intermediaries such as exchange houses submit 5.5 per cent, insurance companies 3.1 per cent, the postal sector 2.6 per cent, and all other sectors less than one per cent.

The UIC, which is an arm of the Bank of Italy, receives and analyzes STRs filed by covered institutions, and then forwards them to either the Anti-Mafia Directorate (including local public prosecutors) or the Guardia di Finanza (GdF) (financial police) for further investigation. The UIC compiles a register of financial and non-financial intermediaries that carry on activities that could be exposed to money laundering. The UIC also performs supervisory and regulatory functions such as

issuing decrees, regulations, and circulars. It does not require a court order to compel supervised institutions to provide details on regulated transactions.

A special currency unit of the GdF is the Italian law enforcement agency with primary jurisdiction for conducting financial investigations in Italy. STRs led the GdF to identify $14,400,000 in laundered money in 2003. Both the UIC and the special currency unit have access to the Bank of Italy's central archive. Investigators from other divisions in the GdF and other Italian law enforcement agencies must obtain a court order prior to being granted access to the archive.

Italy has established reliable systems for identifying, tracing, freezing, seizing, and forfeiting assets from narcotics-trafficking and other serious crimes, including terrorism. These assets include currency accounts, real estate, vehicles, vessels, drugs, legitimate businesses used to launder drug money, and other instruments of crime. Under anti-Mafia legislation, seized financial and non-financial assets of organized crime groups can be forfeited. The law allows for forfeiture in both civil and criminal cases. Italy does not have any significant legal loopholes that allow traffickers and other criminals to shield assets. However, the burden of proof is on the Italian government to make a case in court that assets are related to narcotics-trafficking or other serious crimes. Law enforcement officials have adequate powers and resources to trace and seize assets; however, their efforts can be affected by which local magistrate is working a particular case. Funds from asset forfeitures are entered into the general State accounts. Italy shares assets with member states of the Council of Europe.

In October 2001, Italy passed a decree (subsequently converted into legislation) that created the Inter-Ministerial Financial Security Committee (FSC), which is charged with coordinating GOI efforts to track and interdict terrorist financing. The committee includes representatives from the Economics, Justice, and Foreign Affairs Ministries; law enforcement agencies; and the intelligence services. The Committee has far-reaching powers that include waiving provisions of the Official Secrecy Act to obtain information from all government ministries and the as-yet-unused authority to order a freeze of terrorist-related assets.

A second October 2001 decree (also converted into legislation) made financing of terrorist activity a criminal offense, with prison terms of between seven and 15 years. The legislation also requires financial institutions to report suspicious activity related to terrorist financing. Both measures facilitate the freezing of terrorist assets. In 2003, FSC data indicates that 43 accounts belonging to 42 individuals were frozen in relation to terrorism financing, totaling $570,000. The GOI cooperates fully with efforts by the United States to trace and seize assets. Italy is second only to the United States in the number of individual terrorists and terrorist organizations it has submitted to the UNSCR 1267 Sanctions Committee for designation. The UIC is responsible for transmitting to financial institutions the EU, UN, and U.S. Government (USG) lists of terrorist groups and individuals. The UIC may provisionally suspend for 48 hours transactions deemed suspect. The courts must then act to freeze or seize the assets. Under Italian law, financial and economic assets linked to terrorists can only be seized through a criminal sequestration order. Courts may issue such orders as part of criminal investigation of crimes linked to international terrorism. The sequestration order may be issued with respect to any asset, resource, or item of property, provided that these are goods or resources linked to the criminal activities under investigation. The Ministry of Finance has drafted legislation that would allow the freezing, seizing, and forfeiture of non-financial assets belonging to terrorist groups and individuals. The legislation still needs approval by the Council of Ministers before being submitted to Parliament.

In Italy, the term "alternative remittance system" refers to non-bank regulated institutions such as money transfer businesses. Informal remittance systems do exist, primarily to serve Italy's significant immigrant communities. Italy does not regulate charities per se. Primarily for tax purposes, Italy in 1997 created a category of "not-for-profit organizations of social utility" (ONLUS). Such an organization can be an association, a foundation or a fundraising committee. To be classified as an ONLUS, the organization must register with the Economics Ministry and prepare an annual report.

The UIC and the Federation of ONLUS Agencies have agreed to cooperate to develop statistical data on and analysis of ONLUS organizations, as well as to provide information and alerts to donors to caution them on how legitimate donations can be siphoned to illegitimate ends.

Italian cooperation with the United States on money laundering matters has been exemplary. The United States and Italy have signed a customs assistance agreement as well as extradition and Mutual Legal Assistance treaties (MLAT). Both in response to requests under the MLAT and on an informal basis, Italy provides the United States records related to narcotics-trafficking, terrorism and terrorist financing investigations and proceedings. Italy also cooperates closely with U.S. law enforcement agencies and other governments investigating illicit financing related to these and other serious crimes. An effort to provide a mechanism under the MLAT for asset forfeiture and the sharing of forfeited assets has not yet come to fruition. Assets can only be shared bilaterally if agreement is reached on a case-specific basis.

Italy is a party to the 1988 UN Drug Convention; 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. Italy has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Italy is a member of the Financial Action task Force (FATF) and held the FATF presidency in 1997-98. As a member of the Egmont Group, Italy's UIC shares information with other countries' FIUs. The UIC has been authorized to conclude information-sharing agreements concerning suspicious financial transactions with other countries. To date, Italy has signed memoranda of understanding with France, Spain, the Czech Republic, Croatia, Slovenia, Belgium, Panama, Latvia, the Russian Federation, Canada, and Australia. Italy also is negotiating agreements with Japan, Argentina, Malta, Thailand, Singapore, Hong Kong, Malaysia, and Switzerland, and has a number of bilateral agreements with foreign governments in the areas of investigative cooperation on narcotics-trafficking and organized crime. There is no known instance of refusal to cooperate with foreign governments.

Italy is firmly committed to the fight against money laundering and terrorist financing, both domestically and internationally. However, given the relatively low number of STRs being filed by non-bank financial institutions, the GOI should increase its training efforts and supervision in this sector, to decrease its vulnerability to abuse by criminal or terrorist groups. Italy should also continue its active participation in multilateral fora dedicated to the global fight against money laundering and terrorist financing.

Jamaica

Jamaica, the foremost producer and exporter of marijuana in the Caribbean, is also a major transit country for cocaine flowing from South America to the United States and other international destinations. The profits from these massive illegal drug flows must be legitimated and therefore make Jamaica susceptible to money laundering activities and other financial crimes. Jamaica is not experiencing any increase in incidence of financial crimes such as bank fraud or contraband smuggling that filter funds through the banking system. The Government of Jamaica (GOJ) does not encourage or facilitate money laundering, nor has any senior official been investigated or charged with the laundering of proceeds from illegal activity.

Jamaica is not an offshore financial center and its banking system continues to be under intense scrutiny from regulators in the wake of several major banking scandals in the 1990s. Because of this scrutiny, Jamaican financial instruments are considered an unattractive mechanism for laundering money. As a result, much of the proceeds from drug-trafficking and other criminal activity are used to acquire tangible assets such as real estate or luxury cars, while still more merely passes through Jamaica as cash shipments to South America. Further complicating the picture are the hundreds of

millions of U.S. dollars in remittances sent home to Jamaica by the substantial Jamaican population overseas.

The Money Laundering Act (MLA), implemented on January 5, 1998, governs Jamaica's anti-money laundering regime. The MLA criminalizes narcotics-related money laundering and introduces record keeping and reporting requirements for financial institutions on all currency transactions over $10,000. Exchange bureaus and cambios have a reporting threshold of $8,000. The MLA was amended in March 1999 to raise the threshold to $50,000, after complaints from financial sector institutions that had difficulties with the amount of paperwork resulting from the $10,000 threshold. At that time, a requirement was also added for banks to report suspicious transactions of any amount to the Director of Public Prosecutions (DPP). In February 2000, the MLA was amended to add fraud, firearms trafficking, and corruption as predicate offenses for money laundering. In February 2002, legislative measures imposed a requirement for money transfer and remittance agencies to report transactions over $50,000.

During 2004, the Jamaican Parliament passed amendments to the Bank of Jamaica Act, the Banking Act, the Financial Institution Act and the Building Society Act that govern the periodic examination of commercial banks and financial institutions. The Acts provide the legal and policy parameters for the licensing and supervision of financial institutions and lay the foundation for the proposed amendments to the MLA scheduled for debate in Parliament. The proposed amendments have not been agreed upon.

In addition to a new Customs arrival form that requires declaration of currency or monetary instruments over $10,000 or equivalent introduced in 2003, the GOJ changed its immigration form in conjunction with the implementation of a new border security entry/exit system designed to better control the flow of persons in and out of Jamaica. This measure should assist law enforcement efforts to combat the movement of large amounts of cash—often in shipments totaling hundreds of thousands of U.S. dollars through Jamaica.

Jamaica has an on-going continuing education program to ensure compliance with the suspicious transaction reporting requirements. The Financial Investigations Division of the Ministry of Finance consists of 14 forensic examiners, six police officers who have full arrest powers, a director and 5 administrative staff. However, no major cases of money laundering arrests or prosecutions were reported in 2004. Jamaican law enforcement officials responsible for combating financial crimes are generally cooperative with U.S. law enforcement agencies and frequently request training and other technical assistance.

Further action is still required in the area of asset forfeiture to permit the GOJ to take full advantage of this mechanism in its anti-money laundering efforts. Law enforcement authorities are hampered by the fact that Jamaica has no civil forfeiture law, and under the 1994 Drug Offenses (Forfeiture of Proceeds) Act, a criminal drug-trafficking conviction is required as a prerequisite to forfeiture. This often means that even when police discover illicit funds, the money cannot be seized or frozen and must be returned to the criminals. Asset that are eventually forfeited, are deposited into a fund shared by the Ministries of National Security, Justice and Finance. In 2004, GOJ agencies shared $85,000 from seizures from drug-trafficking, money laundering, tax and customs evasion and larceny. The new Proceeds of Crime Bill, currently circulating in Parliament, will go a long way to address the shortcomings but the process is moving at a snail's pace.

Terrorism and terrorist financing are covered under the pending Terrorism Prevention Bill. Currently, these crimes are covered as suspicious transactions for money laundering purposes. The Terrorism Prevention Act would remove the need for a court order and allow the GOJ to freeze and seize terrorist assets. As an interim measure, the Bank of Jamaica currently requires all banks and financial institutions (including remittance companies) to abide by the "Guidance Notes for Financial Institutions in Detecting Terrorist Financing" issued by the Financial Action Task Force (FATF) in

April 2002. Additionally, the Ministry of Foreign Affairs and Foreign Trade distributes to all relevant agencies the list of individuals and entities included on the UN 1267 Sanction Committee consolidated list. To date, no accounts owned by those included on the consolidated list have been discovered in Jamaica. The Terrorism Prevention Bill is also far from becoming law.

Jamaica and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. Jamaica is a party to the 1988 UN Drug Convention, the Inter-American Convention Against Corruption, and the UN Convention against Transnational Organized Crime as well as a signatory to the UN International Convention for the Suppression of the Financing of Terrorism. Jamaica is also a member of the Caribbean Financial Action Task Force and the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering.

The progress the Government of Jamaica has made in fighting money laundering is tempered by the lack of action on key legislation. A more aggressive effort is necessary to bring its regime into line with international standards, such as is being considered in the proposed money laundering and proceeds of crime legislation. The scope of predicate offenses for money laundering should be extended to encompass all serious crimes, and asset forfeiture provisions should be approved as soon as possible. Consideration should also be given to returning the reporting threshold to $10,000, as originally mandated. Jamaica should criminalize terrorist financing and ratify the UN International Convention for the Suppression of the Financing of Terrorism. The Government of Jamaica should also augment its Financial Crimes Division and ensure that the division has sufficient resources to adequately combat financial crimes.

Japan

Japan is an important world financial center, and as such is at major risk for money laundering. The principal sources of laundered funds are narcotics trafficking and financial crimes (illicit gambling, extortion, abuse of legitimate corporate activities, and all types of property-related crimes), often linked to Japan's organized criminal organizations. The National Police Agency of Japan estimates the aggregate annual income from organized criminal organizations is approximately $10 billion, $3.38 billion of which is income from the trafficking of methamphetamines.

U.S. law enforcement reports that drug-related money laundering investigations initiated in the United States periodically show a link between drug-related money laundering activities in the United States and bank accounts in Japan. The number of Internet-related money laundering cases is increasing. In some cases, criminal proceeds were concealed in bank accounts obtained through the Internet market Laws enacted in 2004 now make sales of bank accounts illegal.

Prior to 1999, Japanese law only criminalized narcotics-related money laundering. The Anti-Drug Special Law, which took effect in July 1992, also criminalizes drug-related money laundering, mandates suspicious transaction reports for the illicit proceeds of drug offenses, and authorizes controlled drug deliveries. This legislation also creates a system to confiscate illegal profits gained through drug crimes. The seizure provisions apply to tangible and intangible assets, direct illegal profit, substitute assets, and criminally derived property that has been commingled with legitimate assets.

The limited scope of the law and the burden required of law enforcement to prove a direct link between money and assets to specific drug activity limits the law's effectiveness. As a result, Japanese police and prosecutors have undertaken few investigations and prosecutions of suspected money laundering. Many Japanese officials in the law enforcement community, including Japanese Customs, believe that Japan's organized crime groups have been exploiting Japan's financial institutions.

Pursuant to the 1999 Anti-Organized Crime Law, which came into effect in February 2000, Japan expanded its money laundering law beyond narcotics-trafficking to include money laundering

predicates such as murder, aggravated assault, extortion, theft, fraud, and kidnapping. The law also extends the confiscation laws to include the additional money laundering predicate offenses and value-based forfeitures. It also authorizes electronic surveillance of organized crime members, and enhances the suspicious transaction reporting system.

An amendment to the Anti-Organized Crime Law was submitted on February 20, 2004 to the Diet (Japan's legislature) for approval. The amendment would expand the predicate offenses for money laundering from approximately 200 individual offenses currently, to almost all offenses penalized by imprisonment, with the resulting number of predicate offenses rising to about 350 as a result.

To facilitate the exchange of information related to suspected money laundering activity, Japan's Financial Services Agency established the Japan Financial Intelligence Office (JAFIO) on February 1, 2000, as Japan's financial intelligence unit. Financial institutions in Japan report suspicious transactions to JAFIO, which analyzes them and disseminates them as appropriate. JAFIO also publishes "Examples of Typical Suspicious Transactions" as a guideline for financial institutions. The guideline was revised in March 2002 to add more specific suspicious transaction cases, such as transactions carried out by organized criminal groups and their associates.

JAFIO concluded international cooperation agreements during 2004 with Singapore's Financial Intelligence Unit (FIU) and with FinCEN, establishing cooperative frameworks for the exchange of financial intelligence related to money laundering and terrorist financing. JAFIO already had similar agreements in place with the FIUs of the United Kingdom, Belgium, and South Korea. JAFIO received 95,315 suspicious transaction reports in 2004, more than double the number in 2003. Of these, 64,675 were disseminated to law enforcement authorities. Some 86 percent of the reports came from banks, 8.5 percent from insurance companies, 3.3 percent from the country's large postal savings system, and 1.2 percent- from non-bank money lenders.

The Financial Services Agency (FSA) and Ministry of Finance are working on measures, expected to be promulgated in 2006, to enable authorities to closely monitor domestic and international money remittances. The Cabinet office published its counterterrorist action plan on December 10, 2004. The plan states that Japan intends to fully implement certain Financial Action Task Force Special Recommendations on Terrorist Financing covering these issues by the end of June 2006. Specific measures will be announced this year.

The Financial Services Agency (FSA) supervises public-sector financial institutions and securities transactions. The FSA classifies and analyzes information on suspicious transactions reported by financial institutions, and provides law enforcement authorities with information relevant to their investigation. Japanese banks and financial institutions are required by law to record and report the identity of customers engaged in large currency transactions. There are no secrecy laws that prevent disclosure of client and ownership information to bank supervisors and law enforcement authorities.

In April 2002, Parliament enacted the Law on Customer Identification and Retention of Records on Transactions with Customers by Financial Institutions (a "know your customer" law). The law reinforced and codified the customer identification and record keeping procedures that banks had practiced on their own for years. The Foreign Exchange and Foreign Trade Law was also revised so that financial institutions are required to make positive customer identification for both domestic transactions and transfers abroad in amounts of more than two million yen (approximately $19,230). Banks and financial institutions are required to maintain customer identification records for seven years.

Japanese financial institutions have, when requested, cooperated with law enforcement agencies, including U.S. and other foreign government agencies investigating financial crimes related to narcotics. In 2003, the United States and Japan concluded a Mutual Legal Assistance Treaty (MLAT). Although Japan has not adopted "due diligence" or "banker negligence" laws to make individual

bankers responsible if their institutions launder money, there are administrative guidelines in existence that require due diligence. Japanese law protects bankers and other financial institution employees who cooperate with law enforcement entities.

In a major 2004 money laundering case, a Japanese banker who had worked for Credit Suisse in Hong Kong was arrested in Hong Kong in June and accused of laundering 4.6 billion yen ($42 million) for a leading criminal organization. In September, the Financial Services Agency (FSA) cited Citibank for failure to comply with laws designed to prevent money laundering (such as failing to properly screen clients). In February, the FSA disciplined Standard Chartered Bank for failing to properly check customer identities and for violating the obligation to report suspicious transactions.

The Foreign Exchange and Foreign Trade Law requires travelers entering and departing Japan to report physically transported currency and monetary instruments (including securities and gold weighing over one kilogram) exceeding one million yen (approximately $9,615), or its equivalent in foreign currency, to customs authorities. Failure to submit a report, or submitting a false or fraudulent one, can result in a fine of up to 200,000 yen (approximately $1,923) or six months' imprisonment. However, the reporting requirement is enforced only sporadically.

In response to the events of September 11, 2001, the FSA used the anti-money laundering framework provided in the Anti-Organized Crime Law to require financial institutions to report transactions where funds appeared either to stem from criminal proceeds or to be linked to individuals and/or entities suspected to have relations with terrorist activities. The 2002 Act on Punishment of Financing of Offenses of Public Intimidation added terrorist financing to the list of predicate offenses for money laundering, and provided for the freezing of terrorism-related assets. It was enacted in July 2002. Japan signed the UN International Convention for the Suppression of the Financing of Terrorism on October 30, 2001, and became a party on June 11, 2002. After September 11, 2001, Japan froze accounts related to the Taliban. Since then, Japan has regularly searched for and designated for asset freeze any accounts that might be linked to the entities and individuals on the UNSCR 1267 Sanctions Committee's consolidated list.

Underground banking systems operate widely in Japan, especially in immigrant communities. Such systems violate the Banking Law and the Foreign Exchange Law. The police have investigated 35 underground banking cases in which foreign groups transferred illicit proceeds to foreign countries. The aggregate value of such transfers has amounted to 420 billion yen (approximately $4 billion) since the beginning of 1992. About 120 billion yen ($1.1 billion) have been illegally transferred to China and Korea, and about 90 billion yen ($865 million) to Peru. In November 2004, the Diet approved legislation banning the sale of bank accounts, in a bid to prevent the use of purchased accounts for fraud or money laundering.

Japan has not enacted laws that allow for sharing of seized narcotics assets with other countries. However, the Japanese Government cooperates with efforts by the United States and other countries to trace and seize assets, and makes use of tips on the flow of drug-derived assets from foreign law enforcement efforts, to trace funds and seize bank accounts.

Japan is a party to the 1988 UN Drug Convention and the UN Transnational Organized Crime Convention.. Japan is a member of the Financial Action Task Force. JAFIO joined the Egmont Group of FIUs in 2000. Japan has also taken a leadership role as a member in the Asia/Pacific Group on Money Laundering. In 2002, Japan's FSA and the U.S. Securities and Exchange Commission and Commodity Futures Trading Commission signed a nonbinding Statement of Intent (SOI) concerning cooperation and the exchange of information related to securities law violations.

In terms of international information exchange on money laundering, as of December 2003 JAFIO had received 45 requests for information from foreign FIUs, and had replied with information to 38 requests, according to statistics from JAFIO. Japan has actively supported anti-money laundering

efforts in developing countries in Asia. For example, in 2003 and 2004 Japan provided assistance to the Philippines and to Indonesia for the development of their anti-money laundering framework.

The Government of Japan has many legal tools and agencies in place to successfully detect, investigate, and combat money laundering. In order to strengthen its anti-money laundering regime, Japan should stringently enforce the Anti-Organized Crime Law. Japan should also enact penalties for noncompliance with the Foreign Exchange and Foreign Trade Law, adopt measures to share seized assets with foreign governments, and enact banker "due diligence" provisions.

Jersey

The Bailiwick of Jersey (BOJ), one of the Channel Islands, is a Crown Dependency of the United Kingdom. The Islands are known as Crown Dependencies because the United Kingdom is responsible for their defense and international relations. Jersey's sophisticated array of offshore services is similar to that of international financial services centers worldwide.

The financial services industry consists largely of banks; mutual funds; insurance companies (which are largely captive insurance companies); investment advice, dealing, and management companies; and trust/corporate administration companies. In addition, the companies offer corporate services, such as special purpose vehicles for debt restructuring and employee share ownership schemes. For high net worth individuals, there are many wealth management services.

The International Monetary Fund (IMF) conducted an assessment of the anti-money laundering regime of Jersey in October 2003. The IMF found Jersey's Financial Services Commission (JFSC), the financial services regulator, to be in compliance with international standards, but it provided recommendations for improvement in three areas.

The Jersey Finance and Economics Committee is the government body responsible for administering the law regulating, supervising, promoting, and developing the Island's finance industry. The IMF notes that the Finance and Economics Committee's power to give direction to the JFSC could appear as a conflict of interest between the two agencies, and suggests that a separate body be established to speak for the industry's consumers. The IMF's second proposal is the establishment of rules for banks dealing with market risk, along with a code of conduct for collective investment funds. Third, the IMF recommends that a contingency plan be established for the failure of a major institution.

Jersey is currently addressing the issues and has already published the rules for collective investment funds. The JFSC intends to continue strengthening the existing regulatory powers with amendments to the Financial Services Commission Law 1998, to provide legislative support for its inspections, and the introduction of monetary fines for administrative and regulatory breaches. The amendments will also include stricter codification of industry guidelines and tighter enforcement of anti-money laundering and terrorist financing controls. The next IMF inspection is planned for 2006.

Jersey's main anti-money laundering laws are: the Drug Trafficking Offenses (Jersey) Law of 1988, which criminalizes money laundering related to narcotics trafficking, and the Proceeds of Crime (Jersey) Law, 1999, which extends the predicate offenses for money laundering to all offenses punishable by at least one year in prison. The Prevention of Terrorism (Jersey) Law 1996, which criminalizes money laundering related to terrorist activity, was replaced by the Terrorism (Jersey) Law 2002, that came into force in January 2003. The Terrorism (Jersey) Law 2002 is a response to the events of September 11, 2001, and enhances the powers of the Island authorities to investigate terrorist offenses, to cooperate with law enforcement agencies in other jurisdictions, and to seize assets.

The JFSC has issued anti-money laundering Guidance Notes that the courts take into account when considering whether or not an offense has been committed under the Money Laundering Order. The

reporting of suspicious transactions is mandatory under the narcotics-trafficking, terrorism, and anti-money laundering laws.

After consultation with the financial services industry, the JFSC issued a position paper (jointly issued with Guernsey and the Isle of Man) that sets out a number of proposals for further tightening the essential due diligence requirements that financial institutions should meet regarding their customers. The position paper states the JFSC's intention to insist, inter alia, on affirming the primary responsibility of all financial institutions to verify the identity of their customers, regardless of the action of intermediaries. The paper also states an intention to require a progressive program to obtain verification documentation for customer relationships established before the Proceeds of Crime (Jersey) Law came into force in 1999. Each year working groups review specific portions of these principles and draft Anti-Money Laundering Guidance Notes to incorporate changes.

Approximately 30,000 Jersey companies are registered with the Registrar of Companies, who is the Director General of the JFSC. In addition to public filing requirements relating to shareholders, the JFSC requires details of the ultimate individual beneficial owner of each Jersey-registered company to be filed, in confidence, with the Commission. That information is available, under appropriate circumstances and in accordance with the law, to U.S. and other investigators.

In addition, a number of companies that are registered in other jurisdictions are administered in Jersey. Some companies, known as "exempt companies," do not have to pay Jersey income tax and are only available to nonresidents. Jersey does not provide "offshore" licenses. All regulated individuals are equally entitled to sell their services to residents and nonresidents alike. All financial businesses must have a presence in Jersey, and management must be in Jersey.

Jersey has established a Financial Intelligence Unit (FIU) known as the Joint Financial Crime Unit (JFCU). This unit is responsible for receiving, investigating, and disseminating suspicious transaction reports (STRs). The unit includes Jersey Police and Customs officers, as well as a financial crime analyst. In 2002 the JFCU received 1,612 suspicious activity reports; 1,272 in 2003; and 1,248 in 2004. The JFCU is a member of the Egmont Group.

Jersey has extensive powers to cooperate with other law enforcement and regulatory agencies and regularly does so. The JFSC is also able to cooperate with regulatory authorities, for example, to ensure that financial institutions meet anti-money laundering obligations. The JFSC reached agreements on information exchange with securities regulators in Germany, France, and the United States. The JFSC has a memorandum of understanding for information exchange with Belgium. The 1988 Agreement Concerning the Investigation of Drug Trafficking Offenses and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, as amended in 1994, was extended to Jersey in 1996. Application of the 1988 UN Drug Convention was extended to Jersey on July 7, 1997. Jersey authorities have also put in place sanction orders freezing accounts of individuals connected with terrorist activity.

The Government of Jersey has established an anti-money laundering program that in some instances, such as the regulation of trust company businesses and the requirement for companies to file beneficial ownership with Jersey's Financial Services Commission (JFSC), go beyond what international standards require, in order to directly address Jersey's particular vulnerabilities to money laundering. Jersey should establish reporting requirements for the cross-border transportation of currency and monetary instruments. Jersey should continue to demonstrate its commitment to fighting financial crime by enhancing its anti-money laundering/counterterrorist financing regime in areas of vulnerability.