

International Narcotics Control Strategy Report

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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 than 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 through 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 from 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 PPATK 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 underdevelopment 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.

Expedient 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 Territories (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.

Jordan

Jordan is not a regional or offshore financial center and is not considered a major venue for international criminal activity. The banking and financial sectors, including moneychangers, are supervised by competent authorities according to international standards. The Central Bank of Jordan, which regulates foreign exchange transactions, issued anti-money laundering regulations designed to meet the Financial Action Task Force (FATF) Forty Recommendations on Money Laundering in

August 2001. Under Jordanian law, money laundering is considered an "unlawful activity" subject to criminal prosecution.

An October 8, 2001 revision to the Penal Code criminalized terrorist activities, specifically including financing of terrorist organizations. Jordan has checked for assets of individuals and entities identified by the UNSCR 1267 Sanctions Committee, although no such assets have been identified to date. In December 2004, the United States and Jordan signed an Agreement regarding Mutual Assistance between their Customs Administrations that provides for mutual assistance with respect to customs offenses and the sharing and disposition of forfeited assets.

Jordan has neither enacted a comprehensive anti-money laundering law, nor established an independent Financial Intelligence Unit (FIU). However, a draft anti-money laundering law is nearing completion for approval by the cabinet and presentation to Jordan's parliament. Anti-money laundering efforts are handled by an anticorruption agency within the Jordanian Intelligence Services. However, Jordanian officials report that financial institutions file suspicious transactions reports and cooperate with prosecutors' requests for information related to narcotics-trafficking and terrorism cases. Jordan's Central Bank has instructed financial institutions to be particularly careful when handling foreign currency transactions, especially if the amounts involved are large or if the source of funds is in question. The Banking Law of 2000 (as amended in 2003) waives banking secrecy provisions in any number of criminal cases, including suspected money laundering and terrorism financing.

Jordan is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. Jordan has signed, but not ratified, the UN Convention against Transnational Organized Crime. Jordan is a charter member of the Middle East and North Africa Financial Action Task Force (MENAFATF) that was inaugurated in Bahrain in November 2004. The MENAFATF is a FATF-style regional body. The creation of the MENAFATF is critical for pushing the region to improve the transparency and regulatory frameworks of its financial sectors.

The Government of Jordan has taken steps in constructing an anti-money laundering and terrorist financing program, but much remains to be done. Specific anti-money laundering legislation should be passed recognizing all types of predicate offenses. Jordan should establish a Financial Intelligence Unit (FIU) that receives, analyzes and disseminates suspicious transaction reports to law enforcement agencies. Jordan should ratify the UN Convention against Transnational Organized Crime. Jordanian law enforcement and customs should examine forms of trade-based money laundering.

Kazakhstan

Kazakhstan, with its developed, modern banking system has become the financial center for Central Asia. Unfortunately, the lack of adequate banking regulations, widespread corruption, regular incidents of money laundering and cash smuggling, mostly related to economic crimes, and Kazakhstan's status as a major transit hub for narcotics-trafficking from Afghanistan, also make this country a potential regional money laundering center. The Government of Kazakhstan (GOK) is a willing partner in the fight against terrorism, but weak laws, corruption, ill-trained financial police and a lack of modern equipment hamper its efforts. It is, however, taking steps to remedy these problems.

Money laundering was first criminalized in Kazakhstan by Article 30 of the 1998 counternarcotics law, which makes it illegal to launder money in connection with the sale of illegal drugs. The definition of money laundering used in the act, however, is narrow and the sanctions against it relatively light (a maximum of three years imprisonment, rising to five for multiple offences). A further limit to the effectiveness of the law is that bank records may not be examined until after a criminal case has been initiated.

The GOK has been aware for several years of problems with its policing of financial crimes and is proactively taking corrective measures. In January 2004, the State Agency for Economic Crimes and Corruption was established. The agency is an amalgam of the former Financial Police Agency and the Ministry of Internal Affairs' 9th Department on Economic Embezzlement. The newly created Agency for the Regulation and Inspection of the Financial Market and Financial Organizations is authorized to supervise all aspects of financial markets. In the past, supervision of financial markets was carried out by various state bodies and coordinated by the National Bank. The establishment of a new body,

separate from the National Bank, demonstrates the government's intentions to ensure that the country's financial system is consistent with the best international practices. While the head of the new agency reports directly to the president of Kazakhstan, the agency itself continues to operate under the auspices of the National Bank with which it shares regulatory functions. The overall effectiveness of the agency is also limited by a lack of training and the absence of any legal mechanisms to ensure law enforcement's access to the information related to illegal financial operations, such as money laundering, corruption, terrorism financing and other crimes.

The Prosecutor General's Office is the lead agency in drafting new anti-money laundering and counterterrorist financing legislation and in the formation of the proposed Financial Investigative Unit (FIU). The Office of the Prosecutor General expects the legislation to be passed by the end of the first quarter (April 1, 2005), and that the FIU should be fully operational by the end of 2005. The latter is contingent on requisite funding of the FIU being provided by the Parliament during the annual GOK budget process. The Office of the Prosecutor General has the responsibility within the GOK to ensure that the provisions of the law and the function of the FIU will meet international standards and become an effective means of combating money laundering and related financial crimes.

Only one-half of 242,000 registered business entities in the country are in fact operational. In addition, it is estimated that over 93,000 businesses do not report their tax incomes. Since the beginning of 2004, the State Agency for Combating Economic Crimes and Corruption reported 421 registered money laundering cases in Kazakhstan totaling \$107 million. In early January 2004, the Almaty Prosecutor's Office charged two companies with bank fraud. The two companies were charged with illegal operations resulting in the laundering of \$7 million over a period of five months. According to the Prosecutor's Office, these crimes were conducted with the help of bank employees, making them especially difficult to detect. According to the Prosecutor General of Kazakhstan the detection of crimes involving money laundering companies is fairly low, and the above figures probably do not reflect the true scope of these crimes in Kazakhstan. Moreover, even when such crimes are detected, they often are not prosecuted. According to the Prosecutor's Office, approximately only one out of ten criminal proceedings is actually brought to court.

Kazakhstan is not an offshore financial center. There are no offshore companies or banks. Existing legislation does not favor offshore banks and financial centers. Foreign banks, including American, Dutch, Turkish, and Russian-based financial institutions have offices in Kazakhstan.

The GOK cooperated in circulating the E.O. 13224 list among Kazakhstani banks.

Kazakhstan acceded to the 1988 UN Drug Convention in 1997, and in December 2000 the country signed the UN Convention against Transnational Crime. On February 24, 2003, Kazakhstan ratified the UN International Convention for the Suppression of the Financing of Terrorism. In 2000, the GOK signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. Kazakhstan is considering acceding to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. Kazakhstan is a signatory of the Central Asian Agreement on Joint Fight Against Terrorism, Political and Religious Extremism, Transnational Organized Crime and Illicit Drug Trafficking, signed in April 2000 by Kazakhstan, the Kyrgyz Republic, Tajikistan and Uzbekistan. Kazakhstan is a charter member of the newly organized Eurasian Group on Combating Money Laundering and Financing of Terrorism.

The Government of Kazakhstan is still in the process of developing some of the key legal and institutional frameworks necessary to establish a viable anti-money laundering/counterterrorist financing regime. The Kazakhstan should enact comprehensive legislation, to include criminalizing terrorist financing, and implement due diligence and reporting requirements that meets international standards. Kazakhstan should continue its efforts to provide training and adequate resources to the bodies tasked with enforcing its laws and regulations.

Kenya

As a regional financial and trade center for East, Central, and Southern Africa, Kenya's economy has a large informal sector and a thriving network of cash-based, unrecorded transfers, primarily used by expatriates to send and receive remittances internationally. As such, Kenya is vulnerable to money

laundering. Recently Kenya has taken steps to trace millions of dollars of public funds that were laundered abroad; corruption facilitated the removal of such funds.

Section 49 of the Narcotic Drugs and Psychotropic Substance Control Act of 1994 criminalizes money laundering related to narcotics-trafficking. Narcotics-related money laundering is punishable by a maximum prison sentence of 14 years, though up to now no clear instances of laundering of funds from narcotics-trafficking appear to have come to light. The Central Bank is the regulatory and supervisory authority for Kenya's deposit-taking institutions and has responsibility for over 51 entities. The Kenyan Parliament enacted legislation at the end of 2004 that strengthens the Central Bank's supervisory authority, but it makes no specific reference to money laundering.

In October 2000, the Central Bank issued regulations that require deposit institutions to verify the identity of customers wishing to open an account or conduct a transaction. The regulations also require that these institutions report suspicious transactions. Under the regulations, banks must maintain records of large transactions and report them to the Central Bank. These regulations do not cover non-bank financial institutions such as money remitters, casinos, or investment companies, and there is no enforcement mechanism behind the regulations. Some banks do file suspicious transaction reports voluntarily, but they run the risk of civil litigation, as there are no adequate "safe harbor" provisions for reporting such transactions to the Central Bank. The trigger amount is also very high: on a daily basis, all commercial banks are required to submit reports detailing all transactions greater than \$100,000. Controls on money laundering as such are rarely if ever applied to financial institutions or intermediaries outside the banking sector.

Kenya has little in the way of cross-boundary currency controls. Kenyan regulations require that any amount of cash above \$5,000 be disclosed at the point of entry or departure. In reality this provision is rarely enforced. Central Bank guidelines call for currency exchange firms to furnish reports on a daily basis on any single foreign exchange transaction above about \$10,000, and on cumulative daily foreign exchange inflows and outflows of about \$100,000. Under September 2002 guidelines, foreign exchange dealers are required to ensure that cross-border payments are not connected with illegal financial transactions.

The Banking Act amendment of December 2001 authorizes disclosure of financial information by the Central Bank of Kenya to any monetary authority or financial regulatory authority within or outside Kenya. In 2002, the Kenya Bankers Association issued guidelines requiring banks to report suspicious transactions to the Central Bank. These guidelines do not have the force of law, and only a handful of suspicious transactions have been reported so far.

Kenya is a party to the UN International Convention for the Suppression of the Financing of Terrorism. It has cooperated with the United States and the United Kingdom, but lacks the institutional capacity, investigative skills, and equipment to conduct complex investigations independently. In April 2003, the Government of Kenya (GOK) introduced the Suppression of Terrorism Bill into Parliament. The bill contains provisions that will strengthen the GOK's ability to combat terrorism, but the legislation is opposed by many for fear of human rights violations, though not because of the bill's counterterrorism aspects as such. A GOK official stated in October 2004 that the bill was in the process of being re-drafted. The public does support the government's attempts to increase transparency and to combat corruption, which include its efforts related to money laundering.

There is no legislation permitting the seizure of the financial assets of terrorists. All charitable and nonprofit organizations are registered with the Government and have to submit annual reports. Noncompliance with the annual reporting could lead to de-registration; however, this is rarely enforced. The government did de-register some non-governmental organizations with Islamic links in 1998 in the wake of the bombing of the U.S. Embassy in Nairobi, although they were later re-registered.

Kenya is a party to the 1988 UN Drug Convention. Kenya is an active member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body. Kenya has an informal arrangement with the United States for the exchange of information regarding narcotics, terrorism financing, and other serious crime investigations.

At present the government entities responsible for tracing and seizing assets include the Central Bank of Kenya Banking Fraud Investigation Unit, the Kenya Police through the Anti-Narcotics Unit and the Anti-Terrorism Police Unit, and the Kenya Revenue Authority.

The passage of anti-money laundering legislation and the creation of a financial intelligence unit (FIU) by Kenya would help to formalize its relationship with the United States and with other countries. In 2001, the Government of Kenya formed the Anti-Money Laundering Task Force with the mandate of drafting a comprehensive anti-money laundering law, sensitizing the public and government to money laundering issues, and addressing terrorist financing. After the inception of the task force, a bill on money laundering was drafted, but not introduced. Relevant authorities claim that the bill, entitled the Anti-Money Laundering and Proceeds Bill, will be introduced to Parliament in 2005.

The key points of the legislation include tracing, seizing, and freezing suspect accounts, including those involved in the financing of terrorism; confiscation of the proceeds of crime; declaration of the source of funds; outlawing of anonymous bank accounts; and introduction of mandatory reporting of suspicious transactions above a certain amount. The proposed legislation is not explicit on seizing legitimate business used to launder money. The draft legislation provides for criminal forfeiture only. Actual seizure of assets and forfeiture under current law is rare.

Kenya should expedite the passage of the Anti-Money Laundering and Proceeds Bill and the Suppression of Terrorism Bill as first steps in building a comprehensive anti-money laundering regime. It should also establish a financial intelligence unit (FIU) to serve as a vital part of this regime.

Korea, Democratic Peoples Republic of

The Department of State has designated North Korea as a State Sponsor of Terrorism. Information about the money laundering situation in North Korea is generally unavailable. North Korea's self-imposed isolationism and secrecy as well as its refusal to participate in international organizations make knowledge of the role of North Korea's financial system and drug trafficking situation supposition at best.

What little is known and documented, however, includes North Korea's continued use of Macau as a base of operations for money laundering and other illicit activities. Macau is a useful intermediary, for it provides North Koreans with access to global financial systems. There are reports that Pyongyang also has used Macau to launder counterfeit \$100 bills and Macau's banks as a repository for the proceeds of North Korea's growing trade in illegal drugs.

The Government of North Korea should enact a comprehensive anti-money laundering regime and take steps to stop financial crimes originating in North Korea and the funding of terrorism.

Korea, Republic of

South Korea is not considered an attractive location for international financial crimes or terrorist financing, partly because of existing foreign exchange controls. However, such activities do exist. As law enforcement authorities have gained more expertise investigating money laundering and financial crimes, they have also become more cognizant of the problem. In general, however, the still fairly strict foreign exchange controls in place make it difficult for drug-related or terrorism-related money laundering to flourish.

Most money laundering appears to be associated with domestic criminal activity or corruption and official bribery. Still, criminal groups based in South Korea maintain international associations with others involved in human and contraband smuggling and related organized crime. On the whole, the South Korean government has been a willing partner in the fight against financial crime, and has pursued international agreements toward that end. The Financial Transactions Reports Act (FTRA), passed in September 2001, requires financial institutions to report suspicious transactions to the Korea Financial Intelligence Unit (KoFIU), which operates within the Ministry of Finance and Economy. The KoFIU was officially launched in November 2001, and is composed of 60 experts from various agencies, including the Ministry of Finance and Economy, the Justice Ministry, the Financial

Supervisory Commission, the Bank of Korea, the National Tax Service, the National Police Agency, and the Korea Customs Service. KoFIU analyzes suspicious transaction reports (STRs) and forwards information deemed to require further investigation to domestic law enforcement and the Public Prosecutor's office.

In January 2004, the government tightened its requirements for STRs by lowering the monetary threshold under which they are required to file reports to 20 million won (approximately \$19,000) from the previous 50 million won. Improper disclosure of financial reports is punishable by up to five years imprisonment and a fine of up to 30 million won (about \$25,000). In December 2004, the government also adopted, through a revision of the FTRA, a currency transaction reporting (CTR) system requiring financial institutions to report all currency transactions exceeding a monetary threshold to be set by Presidential Decree. The threshold must be under 50 million won (approximately \$47,250). The FTRA revision also set customer due diligence requirements stipulating that financial institutions must identify and verify customer identification data such as address and income status. The revision will take effect in 2005, on the one year anniversary of the law's promulgation.

Between November 2001 and August 2004, KoFIU has received a total of 4,661 STRs from financial institutions, with a marked increase coming in the past year. It has completed analysis of 4,038 of them, and provided 959 reports to law enforcement agencies as of August 2004. Results were disseminated to law enforcement agencies such as the Public Prosecutor's Office (PPO), National Police Agency (NPA), National Tax Service (NTS), Korea Customs Service (KCS), and the Financial Supervisory Commission (FSC). Another 639 STRs were still under the FIU's analysis. The Korean Customs Service reported on October 4, 2004, that it had found 23 cases of illegal financial transfers overseas (including money laundering) worth 734.8 billion won (\$639 million) as the result of a special investigation conducted between June 14 and September 30. In December 2004, local police arrested several brokers who arranged for undocumented foreign workers to send illegal remittances abroad via the illegal underground "hawala" system. Additionally, the managing directors of the SK Group, a major conglomerate, were prosecuted for laundering 10 billion won (\$8.4 million), in checks and securities, in November 2003.

KoFIU supervises and inspects the implementation of internal reporting systems established by financial institutions. KoFIU is also charged with coordinating the efforts of other government bodies, and the Policy Coordination Committee held meetings in November 2003 and March 2004 to discuss policies and revisions of the FTRA. Officials charged with investigating money laundering and financial crimes are beginning to widen their scope to include crimes related to commodities trading and industrial smuggling, and continue to search for possible links of such illegal activities to international terrorist activity. On December 1, 2004, KoFIU introduced a new online electronic reporting system, through which financial institutions can report suspicious transactions more quickly.

Money laundering controls are applied to non-banking financial institutions, such as exchange houses, stock brokerages, casinos, insurance companies, merchant banks, mutual savings, finance companies, credit unions, credit cooperatives, trust companies, securities companies, insurance companies, credit insurance corporations, and exchange houses. Intermediaries such as lawyers, accountants, or broker/dealers are not covered. Any traveler carrying more than \$10,000 or the equivalent in other foreign currency is required to report the currency to the Korea Customs Service.

Money laundering related to narcotics-trafficking has been criminalized since 1995, and financial institutions have been required to report transactions known to be connected to narcotics-trafficking to the Public Prosecutor's Office since 1997. All financial transactions using anonymous, fictitious, and nominee names have been banned since the 1997 enactment of the Real Name Financial Transaction and Guarantee of Secrecy Act. The Act also requires that, apart from judicial requests for information, persons engaged in financial institutions not provide or reveal to others any information or data on the contents of financial transactions without receiving a written request or consent from the parties involved. However, secrecy laws do not apply when such information must be provided for submission to a court or as a result of a warrant issued by the judiciary.

In a move designed to broaden its anti-money laundering regime, the Republic of Korea (ROK) also criminalized the laundering of the proceeds from 38 additional offenses, including economic crimes, bribery, organized crime, and illegal capital flight, through the Proceeds of Crime Act (POCA), enacted

in September 2001. The POCA provides for imprisonment and/or a fine for anyone receiving, disguising, or disposing of criminal funds. The legislation also provides for confiscation and forfeiture of illegal proceeds.

South Korea still lacks specific legislation on terrorism financing. Two versions of a new counterterrorism bill are working their way through the legislative process, though previous attempts to pass similar bills have not succeeded. Many politicians and nongovernmental organizations (NGOs), recalling past civil rights abuses in Korea by the government, oppose the pending counterterrorism legislation because of fears about possible misuse by the National Intelligence Service. The proposed legislation is crafted to allow the Republic of Korea Government (ROKG) additional latitude in fighting terrorism, though general financial crimes and money laundering have already been criminalized in previously enacted laws.

The pending counterterrorism bill, if passed, would permit the ROKG to seize legitimate businesses that support terrorist activity. Currently, under the special act against illicit drug trafficking and other related laws, legitimate businesses can be seized if they are used to launder drug money, but businesses supporting terrorist activity cannot be seized unless other crimes are committed. At this time, there are no known charitable or nonprofit entities operating in Korea that are used as conduits for the financing of terrorism.

Through KoFIU, the ROK circulated to its financial institutions the list of individuals and entities that have been included in the UNSCR 1267 Sanctions Committee's consolidated list as being linked to Osama bin Laden or members of the al-Qaida organization or the Taliban, or which the U.S. Government (USG) or the European Union have designated under relevant authorities. The ROK implemented regulations on October 9, 2001, to freeze financial assets of Taliban-related authorities designated by the UN Security Council. The government then revised the regulations, agreeing to list immediately all U.S. Government-requested terrorist designations under U.S. Executive Order 13224 of December 12, 2002. Due in part to Korea's remaining restrictive foreign exchange laws, which persist despite some recent liberalization, and which render the country unattractive as an offshore financing center, no listed terrorists are known to be maintaining financial accounts in Korea at this time. Korean banks have not identified any terrorist assets. There have been no cases of terrorism financing identified since January 1, 2002.

ROK authorities are just beginning to assess whether the hawala system is an area of concern. Currently, gamblers who bet abroad often use alternative remittance and payment systems; however, government authorities have already criminalized those activities through the Foreign Exchange Regulation Act and other laws. Hawala-type vendors do exist in South Korea and operate primarily among the country's small population of approximately 30,000 foreigners from the Middle East.

The ROK actively cooperates with the United States and other countries to trace and seize assets. The Anti-Public Corruption Forfeiture Act of 1994 provides for the forfeiture of the proceeds of assets derived from corruption. In November 2001, the ROK established a system for identifying, tracing, freezing, seizing, and forfeiting narcotics-related and/or other assets of serious crimes. Under the system, KoFIU is responsible for analyzing and providing information on STRs that require further investigation. The Bank Account Tracing Team under the Narcotics Investigation Department of the Seoul District Prosecutor's Office (established in April 2002) is responsible for tracing and seizing drug-related assets. The Seoul District Prosecutor's Office seized \$9.5 million worth of drug-related assets in the first 10 months of 2004, compared to a similar amount over the same period in 2003. The ROKG established six additional new bank account tracking teams in 2004 to serve out of the District Prosecutor's offices in the metropolitan cities of Busan, Daegu, Kwangju, Incheon, Daejeon, and Ulsan, to expand its reach. Its legal framework does not allow civil forfeiture.

The ROK continues to address the problem of the transportation of counterfeit international currency. The National Intelligence Service's (NIS) International Crime Center indicated on November 24, 2004, that there were 141 reported cases of counterfeit dollars worth \$66,525 in the first nine months of 2004. This represented the same number of cases noted in the same period of 2003, but the dollar amount increased by some 47 percent compared with a year earlier. Based on the amount of counterfeit currency actually uncovered, the NIS estimated that \$500,000 to one million dollars of fake currency may be in circulation in South Korea.

South Korea has a number of thriving free trade zones (FTZs) that enjoy certain special privileges. However, companies operating within them are subject to the same general laws on financial transactions as companies operating elsewhere, and there is no indication these FTZs are being used in trade-based money laundering schemes or for terrorist financing. The ROK mandates extensive entrance screening to determine companies' eligibility to participate in FTZ areas, and firms are subject to standard disclosure rules and criminal laws. As of November, 2004, the ROK had seven FTZs, as a result of the June, 2004 recategorization of the three port cities of Busan, Incheon, and Kwangyang as FTZs. They were recategorized from their previous designation of "customs-free areas" in order to avoid confusion from the earlier dual system of production-focused FTZs, and logistics-oriented "customs-free zones." Incheon International Airport is slated to become the eighth FTZ. In 2004, the Ministry of Commerce, Industry, and Energy expects the addition of the three new FTZs to boost 2004 exports through the FTZs to over \$12 billion, and expects imports into the FTZs to reach \$10 billion by 2008.

The ROK is a party to the 1988 UN Drug Convention and, in December 2000, signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. In October 2001, the ROK signed the UN International Convention for Suppression of the Financing of Terrorism, and it ratified the convention on February 17, 2004. The ROK also signed in December 2003, but has not ratified, the UN Convention against Corruption. The ROK is an active member of the Asia/Pacific Group on Money Laundering (APG), and in 2004 hosted the APG annual meeting.. The ROK also became a member of the Egmont Group in 2002 and applied for membership in the Financial Action Task Force. An extradition treaty between the United States and the ROK entered into force in December 1999.]The United States and the ROK cooperate in judicial matters under a Mutual Legal Assistance Treaty, which entered into force in 1997. In addition, the FIU continues to actively pursue information-sharing agreements with a number of countries. KoFIU signed memoranda of understanding with Belgium (March 2002), Poland (October 2002), the United Kingdom (October 2002), Brazil (February 2003), Australia (May 2003), Indonesia (October 2003), Colombia and Venezuela (November 2003), Japan (December 2003), Finland (January 2004), Canada (June 2004) and the United States (November 2004) to facilitate the exchange of information on money laundering. These agreements are expected to enhance the government's asset tracing and seizure abilities.

The Government of the Republic of Korea should criminalize the financing and support of terrorism and should continue to move forward to adopt and implement its pending legislation. The Republic of Korea should extend its anti-money laundering regime to financial intermediaries. The Republic of Korea should continue its policy of active participation in international anti-money laundering efforts, both bilaterally and in multilateral fora. Spurred by enhanced local and international concern, the Republic of Korea law enforcement officials have begun to fully grasp the negative potential impact such activity has on their country, and to take steps to combat its growth. The Republic of Korea should also accede to the UN International Convention for the Suppression of Terrorism.

Kuwait

Kuwait is not a major regional financial sector. It has nine commercial banks, including two Islamic banks, all of which provide traditional banking services comparable to Western-style commercial banks. Kuwait also has two specialized banks, the Kuwait Real Estate Bank, which is in the process of converting to an Islamic bank, and the government-owned Industrial Bank of Kuwait. Both of these banks provide medium and long-term financing. Regulators do not believe that money laundering is a significant problem, and most money laundering operations are generated as a byproduct of local drug and alcohol smuggling into the country.

On March 10, 2002, the Emir (Head of State) of Kuwait signed Law No. 35, which criminalizes money laundering. The law stipulates that banks and financial institutions may not keep or open any anonymous accounts or accounts in fictitious or symbolic names, and that banks must require proper identification of regular and occasional clients. The law also requires banks to keep all records of transactions and customer identification information for a minimum of five years, conduct training and establish internal control systems, and report any suspicious transactions.

Law No. 35/2002 designates the Office of Public Prosecution (OPP) as the sole authority to receive reports and take appropriate action on money laundering operations. Reports of suspicious

transactions are then referred from the OPP to the Central Bank of Kuwait (CBK) for analysis. The law provides for a penalty of up to seven years' imprisonment in addition to fines and asset confiscation. The penalty is doubled if an organized group commits the crime, or if the offender took advantage of his influence or his professional position. Moreover, banks and financial institutions may face a steep fine (approximately \$3.3 million) if found in violation of the law. Law 35/2002 does not cite terrorist financing as a crime; however, the definition of criminal activity is broad.

The law includes articles on international cooperation, and on monitoring cash and precious metals transactions. Currency smuggling into Kuwait is also outlawed under Law No. 35/2002, although reporting requirements are not enforced at ports of entry. Provisions of Article 4 of Law No. 35/2002 state that every person shall, upon entering the country, inform the customs authorities of any national or foreign currency, gold bullion, or any other precious materials in his/her possession, valued in excess of Kuwait dinars 3,000 (about \$10,000). However, the law does not require individuals to file customs declarations when carrying cash or precious metals out of Kuwait. The law authorizes the Minister of Finance to set forth the resolutions necessary to ensure its implementation. The Minister of Finance, as stipulated by Law No. 35/2002, can issue resolutions to enhance combating money laundering operations, without actually amending the legislation. Several cases have been opened under Law No. 35/2002, but the majority of them were closed after investigations did not disclose prosecutable offenses. Only two cases have gone to courts. The cases reportedly involve money smuggling and failure to report currency transactions, and do not involve banks.

In addition to Law No. 35/2002, anti-money laundering reporting requirements and other rules are contained in the CBK's instructions No. (2/sb/92/2002), which took effect on December 1, 2002, superseding instructions No. (2/sb/50/97). The revised instructions provide for, inter alia, customer identification and the prohibition of anonymous or fictitious accounts (Articles 1-5); the requirement to keep records of all banking transactions for five years (Article 7); electronic transactions (Article 8); the requirement to investigate transactions that are unusually large or have no apparent economic or lawful purpose (Article 10); the requirement to establish internal controls and policies to combat money laundering and terrorism finance, including the establishment of internal units to oversee compliance with relevant regulations (Article 14 and 15); and, the requirement to report to the CBK all cash transactions in excess of \$10,000 (Article 20). In addition, the CBK distributed detailed instructions and guidelines to help bank employees identify suspicious transactions. The CBK is currently working on updating its anti-money laundering instructions to accommodate new international standards.

Kuwait has two Islamic banks, Kuwait Finance House (KFH) and Bubiyan Islamic Bank, which are both licensed and supervised by the CBK. As of May 31, 2004, KFH came fully under the supervision of CBK, and has been cooperative with its offices, as have all other Islamic investment companies. The Bubiyan Islamic Bank was established by the Kuwaiti Investment authority (KIA) and is in the process of being formed, after its May 2004 initial public offering. The Kuwait Real Estate Bank, which has been one of Kuwait's two "specialized banks," is in the process of converting to an Islamic bank. The CBK has been working on bringing Islamic financial institutions under its supervision since before the terrorist attacks of September 11, 2001.

In addition, CBK issued circular No. (2/sb/95/2003) in 2003, which is directed toward money changing companies, and which contains similar instructions with respect to combating money laundering and suspicious activities reporting guidelines. A similar order (31/2003) was issued by the Kuwait Stock Market to all companies under its jurisdiction. There are about 130 money exchange businesses (MEBs) operating in Kuwait, none of which are companies, and therefore, are not under the supervision of the CBK but rather under the Ministry of Commerce and Industry. The CBK has reached an agreement with the Ministry of Commerce and Industry to enforce all anti-money laundering (AML) laws and regulations in supervising such businesses. Furthermore, the Ministry will work diligently to encourage the MEBs to apply for and obtain company licenses and register with the CBK.

The Ministry of Commerce and Industry supervises insurance companies, exchange bureaus, gold and precious metals shops, brokers in the Kuwait Stock Exchange, and all other financial brokers. Since September 2002, these firms must abide by all regulations concerning customer identification, record keeping of all transactions for five years, establishment of internal control systems, and the reporting of suspicious transactions.

In April 2004, the Ministry of Finance issued Ministerial Decision No. 11 (MD No. 11/224), which transferred the chairmanship of the National Committee for Anti-Money Laundering and the Combating of the Financing of Terrorism, formerly headed by the Minister of Finance, to the Governor of the CBK. The Committee is comprised of representatives of the Ministries of Interior, Foreign Affairs, Commerce and Industry, and Finance; Office of Public Prosecution; Kuwait Stock Exchange; General Customs Authority; and the Union of Kuwaiti Banks. The decree expanded the membership of the Committee to include the Ministry of Labor and Social Affairs in an apparent move to oversee charities and non-governmental organizations.

According to the MD 11/2004, the Committee shall be entrusted, inter alia, with drawing up the country's strategy and policy with regard to anti-money laundering and terrorist financing; drafting the necessary legislation, along with pertinent regulations; coordinating between the concerned ministries and agencies in matters related to combating money laundering and terrorist financing; following up on domestic, regional, and international developments, and making needed recommendations in this regard; setting up appropriate channels of communication with regional and international institutions and organizations; and representing Kuwait in domestic, regional, and international meetings and conferences. In addition, Article Seven entrusts the Chairman of the Committee with issuing regulations and procedures that he deems appropriate for the Committee duties and responsibilities and the organization of its activities.

Following the September 11, 2001, attacks against the United States, certain Islamic charity organizations such as the Revival of Islamic Heritage Society (RIHS) and its subsidiary, the Afghan Support Committee (ASC), which operate from Kuwait and have branches in Pakistan and Afghanistan, were suspected of providing funds to al-Qaida. However, there is no indication that such activities occurred with the knowledge of the Kuwaiti head office, which remains undesignated; U.S. authorities have only designated the branches in Pakistan and Afghanistan as having been used to funnel funds to terrorist organizations. The RIHS is under the supervision of the Ministry of Labor and Social Affairs, which has become the newest member of the National Committee for Anti-Money Laundering and the Combating of the Financing of Terrorism.

In August 2002, the Kuwaiti Ministry of Social Affairs and Labor issued a ministerial decree creating the Department of Charitable Organizations. The primary responsibilities of the new department are to receive applications of registration from charitable organizations, monitor their operations, and establish a new accounting system to insure that such organizations comply with the law both at home and abroad. The Department has established guidelines to charities explaining donation collection procedures and regulating financial activities. The new Department is also charged with conducting periodic inspections to insure that they maintain administrative, accounting, and organizational standards according to Kuwaiti law. Further, the Department mandates the certification of charities' financial activities by external auditors. Banks may not transfer any money outside of Kuwait without prior permission from the Ministry. In addition, such wire transactions must be reported to the CBK.

On June 23, 2003, the CBK issued Resolution No. 1/191/2003, establishing the Kuwaiti Financial Inquiries Unit (KFIU) as an independent entity within the Central Bank. The goals of KFIU, which acts as a Financial Intelligence Unit (FIU), are to receive and analyze reports of suspected money laundering from the Office of Public Prosecution (OPP), to establish a database of suspicious transactions, to conduct anti-money laundering training, and to carry out domestic and international exchanges of information in cooperation with the OPP. Law No. 35/2002 did not establish the FIU as the central unit for the receipt, analysis, and dissemination of the suspicious transaction reports (STR) information; instead, these critical functions were divided. Now, STRs are received in the CBK, while the Public Prosecutor has the authority to disseminate STRs and assess international requests for information. Kuwaiti officials agree that the current limits on information sharing by the FIU are a problem that requires amending of the law.

Kuwait is a member of the Gulf Cooperation Council (GCC), which is itself a member of the Financial Action Task Force (FATF). In November 2004, Kuwait signed the memorandum of understanding governing the establishment of the Middle East and North Africa Financial Action Task Force (MENAFATF). Kuwait is one of the fourteen charter members of this FATF-style regional body that was inaugurated in Bahrain to promote best practices to combat money laundering and terrorist financing in the region.

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

Kuwait is making progress in enforcing its anti-money laundering program. The issuance of the Ministry of Finance Decree 11/2004 concerning the new duties of the National Committee for Anti-Money Laundering and the Combating of the Financing of Terrorism represents a significant improvement. Kuwaiti officials acknowledge the need for extensive training for all involved sectors.

The Government of Kuwait should take steps to strengthen its anti-money laundering law, improve the sharing of financial information, and criminalize terrorist financing. Kuwait should also make outbound currency and precious metals declarations mandatory. More interagency cooperation and coordination between the Kuwaiti Financial Inquiries Unit and other concerned parties could yield significant improvements in proactive investigations and international information exchange. The Kuwaiti Financial Inquiries Unit should be able to independently share financial information with its foreign counterparts, and receive, analyze, and disseminate suspicious transaction reports without obtaining prior authorization from the Office of the Public Prosecutor. Kuwait should become a party to both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Kyrgyz Republic

The Kyrgyz Republic is not a regional financial center. Money laundering is still not classified as a crime under present Kyrgyz legislation. The Kyrgyz banking system remains comparatively underdeveloped. Like other countries in this region, the Kyrgyz Republic's alternative remittance systems are susceptible to money laundering activity or trade-based fraud. The smuggling of consumer goods, tax and tariff evasion, official corruption and narcotics-trafficking continue as the major sources of illegal proceeds within the Kyrgyz Republic.

In 2004 the Kyrgyz legislature drafted a fairly comprehensive law on "Combating Terrorism and Illicit Money Laundering". On December 9, 2004, the bill passed its first reading in the Parliament. It will need to pass an additional reading before being sent to the President for signature. The proposed law defines predicate offenses and criminalizes income obtained as a result of a criminal action. It also includes the mandatory reporting of suspicious transactions by all Kyrgyz financial institutions. Because of Parliamentary elections scheduled for late February, it is expected that the second reading will not take place until the second quarter of 2005. At present, the Kyrgyz Republic has no other laws or draft laws on money laundering.

The National Bank has provisions that require customer identification procedures and make an exception to bank privacy rules for suspicious transaction reporting, but these provisions are reported to be mostly ignored by the commercial banks. Currently, several National Bank restrictions prohibiting banking operations with certain offshore financial institutions and a number of identified suspicious organizations serve to regulate the anti-money laundering process. Oversight of the banking sector, however, remains generally weak, and Kyrgyz law enforcement agencies lack the expertise and resources necessary to effectively monitor and investigate financial irregularities.

On October 6, 2004 the Kyrgyz Republic, along with Russia, China, Belarus, Tajikistan, and Kazakhstan, formed the Eurasian Group for Counteraction to the Legalization of Illegal Incomes and Terrorism Financing. The Kyrgyz Republic 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 Kyrgyz Republic has signed, but not yet ratified, the UN Convention against Corruption.

The Kyrgyz Government has agreed to participate in a United States-sponsored "Needs Assessment" on money laundering and financial investigations scheduled for February 2005. This review is designed to identify the vulnerabilities or deficiencies in legislation to combat money laundering and financial crimes. It will also identify training needs for all Kyrgyz law enforcement agencies responsible for investigations of these crimes.

The Government of the Kyrgyz Republic should adopt the legislation necessary to implement a comprehensive anti-money laundering regime capable of thwarting terrorist financing and should provide the necessary resources to implement such a program. The Kyrgyz Government should also remain vigilant in its efforts to combat money laundering activities that circumvent the financial institutions.

Laos

Laos, a major drug-producing and transit country, is on the fringe of the region's banking network. Its banking sector is dominated by state-owned commercial banks in need of extensive reform. The small scale and poor financial condition of Lao banks may make them more likely to be venues for certain kinds of illicit transactions. However, Lao banks are not optimal for moving large amounts of money in any single transaction, due to the visibility of such movements in a small, low-tech environment. What money laundering does take place through Lao banks is likely to have been from illegal timber sales or domestic criminal activity, including drug trafficking. In a recent high-profile case involving a foreign-owned company accused of securities fraud, Lao customs authorities seized \$300,000 in cash a businessman was transporting to Thailand, in contravention of Lao law. Subsequent investigation indicated that this business had transferred several million dollars from abroad through the Lao banking system in the past year, much of which was reportedly withdrawn in cash. The case revealed the weakness of the Lao banking system in monitoring suspicious transactions.

Laos has drafted a money laundering law with counterterrorism finance components, based upon a model law provided by the Asian Development Bank. The legislation was proposed during the second half of 2004 and has passed through the Ministry of Justice. It awaits prime ministerial approval and is expected to be passed by the National Assembly in April 2005, perhaps with changes. The law will criminalize money laundering and terrorist financing. A Financial Intelligence Unit (FIU) will also be established, to supplant the small and informal one currently in place. Reportedly, a provision will be made for the freezing of suspect transactions and forfeiture of laundering proceeds. The Bank of Laos currently has a very small Banking Supervision Department, and it is thought that the Department will be augmented and used to help implement the new legislation. Provision will be made for mutual assistance in criminal matters between Laos and other countries.

Lao law prohibits the export of the national currency, the Kip. It is likely that the currency restrictions and undeveloped banking sector encourage the use of alternative remittance systems.

The GOL is a party to the 1971 UN Convention on Psychotropic Substances and the 1988 UN Drug Convention. GOL sends its officials to relevant Association of Southeast Asian Nations (ASEAN) regional conferences on money laundering. Laos also has observer status in the Asia Pacific Anti-Money Laundering Group, and plans to join fully once its anti-money laundering law is enacted.

The Government of Laos should pass anti-money laundering and counterterrorism financing legislation. Laos should also become a party to the UN International Convention for the Suppression of Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Latvia

Latvia's role as a regional financial center, its large number of commercial banks, and those banks' sizeable non-resident deposit base continue to pose significant money laundering risks in Latvia, even as Latvian financial institutions, regulators, and law enforcement and judicial authorities seek tighter adherence to legislative norms, regulations, and "best practices" designed to fight financial crime. Sources of laundered money include counterfeiting, corruption, white-collar crime, extortion, financial/banking crimes, stolen cars, contraband smuggling, and prostitution. Organized crime is thought to account for a significant portion of laundered proceeds. Latvian consumers are increasingly comfortable with the use of electronic, credit, and other non-cash payments. At the same time, there are no restrictions in Latvia on cross-border currency movement (cash or non-cash, domestic or foreign) or the physical movement of other financial instruments. However, in November 2004, a package of drafted acts was finalized, in anticipation of a forthcoming European Union (EU) Directive, to enact cash declaration requirements (over 15,000 euros) on the external borders of the EU. This will affect Latvia's border crossings with Russia and Belarus, and passengers traveling to Latvia by air

from non-EU countries. The proposal will be sent to the Latvian Parliament for review in 2005. Latvia's accession to the European Union occurred on May 1, 2004.

The Government of Latvia (GOL) criminalized money laundering for all serious crimes in 1998. There are requirements for customer identification, the maintenance of records on all transactions, and the reporting of large cash transactions and suspicious transactions to the Office for the Prevention of the Laundering of Proceeds Derived from Criminal Activity (Control Service), which is Latvia's Financial Intelligence Unit (FIU).

The Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (the anti-money laundering law (AML)) requires all institutions engaging in transactions to report suspicious activity. On February 1, 2004, the amendments to meet the requirements of the Second EU Directive of 2001 became effective. Amendments to the AML law expand the scope of reporting institutions, and include auditors, lawyers, and high-value dealers, as well as credit institutions.

The law lists four categories of entities obligated to report suspicious activities: participants in financial and capital markets (credit institutions, insurance companies, private pension funds, stock exchanges, brokerage companies, investment companies, credit unions, and investment consultants); organizers and holders of lotteries and gambling enterprises; companies engaged in foreign currency exchange; and individuals and companies who perform professional activities and services associated with financial transactions (money transfer services, tax consultants, auditors, auditing companies, notaries, attorneys, real estate companies, art dealers, and commodities traders).

Another amendment to the AML law recognizes all offenses listed in the criminal law, including terrorism, as predicate offenses for money laundering. The amendments also provide the FIU with authority to stop transactions for up to 45 days. The supervisory and control authorities have begun to amend their guidelines for the additional institutions the amendments have brought under their supervision.

The AML law requires all institutions engaging in transactions to report suspicious activity. Individual banks and other financial institutions have discretion in establishing internal protocols for identifying suspicious transactions. The law also mandates institutions to report unusual transactions, based on a list of indicators that the GOL established in 2001 as part of its AML regime. According to the list of unusual indicators, Latvian banks are mandated to report cash transactions in excess of 40,000 lats (approximately \$80,000). Additionally, banks are required to record the identity of any customer engaging in a transaction exceeding 15,000 euros. There are no bank secrecy laws that prevent law enforcement agencies from identifying account holders during criminal investigations. Financial and credit institutions submit suspicious transaction reports (STRs) and unusual activity reports to the Control Service.

The Control Service operates under the oversight of the Prosecutor General's Office. Approximately 40 percent of all reports filed with the Control Service are STRs; the other 60 percent consist of unusual currency transaction reports. The Control Service received 7,902 reports in 2002, 15,371 reports in 2003, and 16,128 in 2004. The growth in the number of reports for the year 2003 is due to the more pro-active efforts on the part of most banks to report unusual activity above the mandatory threshold requirements, and the additional research conducted by the financial institutions to trace the funds. In 2003, nine new criminal cases were opened and nine additional cases were updated with information provided by the FIU. In 2004, ten new criminal cases were opened and six additional cases were updated with information provided by the FIU.

Prior to Latvia's accession into the European Union, the EU's 2001 Report on Latvia's Progress characterized the perceived level of corruption in Latvia as relatively high. Latvia continues to take steps to combat both real and perceived corruption. In 2002, the Parliament adopted the Law on Prevention of Conflict of Interest of Public Officials.

In January 2002, the government formally established the Anti-Corruption Bureau (ACB), an independent agency whose specific charter is to prevent and combat corruption. The ACB started operating in February 2003. In 2004 the ACB reviewed 734 Latvian officials' asset declarations and sanctioned 63 officials for violations. In addition, in 2004, the number of cases the ACB forwarded to the prosecutor's office for criminal prosecution nearly doubled to 35. The ACB and the Control Service,

cooperate on cases of suspected public corruption. In 2004, the Ministry of Justice prepared draft amendments on corruption concerning the coercive measures and criminal liability of legal entities, to be presented to Parliament in 2005.

Since July 2001, the Finance and Capital Market Commission (FCMC) has served as the GOL's unified public financial services regulator, overseeing commercial banks and non-bank financial institutions, the Latvian Stock Exchange, and insurance companies. The Bank of Latvia supervises the currency exchange sector. The FCMC conducts regular audits of credit institutions and will apply sanctions to companies that fail to file mandatory reports of unusual transactions. The Control Service also checks to insure that it receives matching STRs on transactions that occur between Latvian banks. The FCMC has approved guidelines for identifying customers and unusual and suspicious transactions, as well as guidance on the internal control mechanisms that financial institutions should have in place. While the FCMC has pressed financial institutions to pay closer attention to suspicious transactions, particularly those involving jurisdictions on the Financial Action Task Force (FATF)-designated list of Non-Cooperative Countries and Territories (NCCTs), the FCMC is limited in its regulatory powers to take strong public action against offending banks.

In 2004, the FCMC conducted 35 on-site inspections of 19 banks where it assessed the banks' internal controls for preventing money laundering. In one instance, the FCMC fined the bank for non-compliance with AML guidelines. The FCMC placed five additional banks under an enhanced supervisory regime. These banks must address, within a prescribed time period, any non-compliance with legal and FCMC guidelines on preventing money laundering, or face sanctions. By December 2004, 13 Latvian banks were still under enhanced FCMC supervision. The FCMC notified two of these banks that board members responsible for preventing money laundering faced removal. An additional two banks face the removal of all of their board members. The FCMC warned one bank during 2004 that it would revoke the bank's license if it failed to comply with FCMC recommendations by the imposed deadline.

The FCMC conducted 13 inspections of seven insurance companies during 2004. It fined two companies for failure to comply with requirements stemming from the "Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity." The FCMC removed the managements of four insurance companies in 2003 and 2004 due to reinsurance operations that likely involved tax evasion and/or money laundering.

Financial institutions have the ability to freeze accounts for an unlimited amount of time. If a financial institution finds the activity of an account questionable, it may close the account on its own initiative. If the institution considers the activity unusual but not suspicious, there is no obligation to file a suspicious transaction report with the Control Service. Latvia still lacks clear legal authority for asset seizures and forfeitures associated with financial crimes. The law enforcement authorities under the Ministry of Interior have proposed a program for combating organized crime, which is under consideration by the government. The program recommends creating a unit under the State Police that would be in charge of addressing issues and legislation concerning the confiscation of proceeds derived from criminal activity issues.

Latvia continues to address the issue of offshore investments. Information on offshore company owners had been confidential, but a law enacted in January 2002 requires more information on the branches of offshore companies in Latvia. The law requires that at least half the board members of such companies be permanent residents of Latvia, parent companies must submit their annual reports to a new commercial register, and changes in the parent companies' authorized personnel in Latvia must likewise be reported, in order to facilitate checking suspicious transactions.

In 2004, the FCMC notified all Latvian banks that they were to cease and desist from advertising their services on websites that publicize offshore financial services. Non-residents represent approximately half of Latvian banks' account holders. Latvian law mandates that banks must collect information on the identity of all account holders, and FCMC regulations require that AML officers must approve new accounts. However, ongoing law enforcement investigations suggest that beneficial account holders sometimes use false identities to open accounts at Latvian banks.

Interagency cooperation between Latvian law enforcement agencies tends to be best at the highest governmental levels, but weaker at the working level due to lack of financial, material, and human resources. The investigative and evidence-gathering processes need streamlining. There are three specialized units, one at the Financial Police (Latvian Finance Ministry), one at the Economic Police (Latvian Interior Ministry), and one at the Office to Combat Organized Crime, which are responsible for money laundering investigations, and one unit at the Prosecutor's Office which specializes in bringing charges against suspected individuals. To date, there have been no forfeitures of illicit proceeds based on money laundering. In 2004, the Prosecutor's Office tried two money laundering cases that resulted in acquittals; one of those cases is on appeal by the prosecution.

The GOL has initiated a number of measures aimed at combating the financing of terrorism, and became a party to the UN International Convention for the Suppression of the Financing of Terrorism on November 14, 2002. Latvia is also a party to 11 other international conventions designed to prevent arms trafficking, terrorism on public transportation, and hostage taking. The GOL has implemented regulations to apply sanctions imposed by UNSCR 1267 and 1333 under Cabinet of Ministers' Regulation No. 437 "On the Sanction Regime of the United Nations Security Council against the Afghan Islam Emirates in the Republic of Latvia." On October 14, 2004, Regulation No. 840 "On the Countries and International Organizations Whose Lists Include Persons Suspected of Committing Acts of Terrorism or Complicity Therein" entered into force, replacing Regulation 387 of July 2003. In accordance with Regulation No. 840, the FIU electronically provides credit and financial institutions and their supervisory and control authorities with consolidated terrorist lists. The Regulation allows the FIU to order a credit or financial institution to freeze suspected terrorist funds. Latvia also has a mechanism for freezing financial resources or other property not involving terrorism.

The Law on Credit Institutions enables police to obtain information from credit institutions in cases of suspected terrorism during the operative stage, prior to the initiation of a criminal case. In October 2004, the FCMC updated its guidelines for financial and credit institutions' internal controls to prevent money laundering and terrorist financing. These updated guidelines incorporate all of the FATF recommendations.

In November 2004, the Prime Minister's Crime Prevention Council approved a new national action plan outlining a strategy to target money laundering, based on the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) recommendations. The Cabinet has not yet formally adopted the new measures, but individual ministries affected by the plan have begun to implement the new procedures.

Amendments to the AML law have been in force since February 2002, which, among other things, provide for: 1) recognizing terrorism as a predicate offense for money laundering, 2) classifying financial resources or other property as proceeds derived from crime if they are directly or indirectly controlled or owned by a physical or juridical person included in the terrorist watch list, 3) making the Latvian FIU the authority that disseminates information on the watch list to credit and financial institutions, 4) giving the FIU authority to demand that credit and financial institutions suspend debit operations in the accounts of such persons or suspend movement of other property of such persons for up to six months, and 5) giving the FIU the authority to cooperate with foreign or international counterterrorism agencies concerning issues of control over the movement of financial resources or other property linked to terrorism.

Since September 11, 2001, Latvian authorities have taken concrete steps to implement the above regulations, and have invested considerable effort in tracing transactions executed by terrorists or their accomplices. Other practical measures include organizing relevant training courses for personnel in financial institutions, creating a special counterterrorism information network within the financial system, nominating a person to deal with counterterrorism issues at the FIU, and establishing an FIU reporting system and procedures concerning terrorist finances.

Latvia has a growing legal gambling industry. Through September 2004, the gaming industry accounted for 51,000,000 lats (approximately \$100,000,000) of revenue, compared to 36,500,000 lats (approximately \$71,568,000) during the first nine months of 2003. In 2004, Latvia enacted a new law that restricts slot machines to defined gaming halls (places that have greater than ten gaming machines). Bars and cafes with slot machines that have been in operation prior to June 2002 are

permitted to maintain their gaming operations provided they have no more than five slot machines. This rule change caused the number of gambling places to drop from 1,487 to 688 during 1004. The number of gaming halls increased from 508 in 2003 to 638 in 2004. As of December 2004, there were 12,125 gaming machines in Latvia, compared to 10,597 in 2003. The number of casinos dropped from 20 in 2003 to 15 in 2004.

The Ministry of Finance's Department of Lotteries and Gambling Supervisory Inspection regulates the gaming industry in Latvia. There are ten casino inspectors who preside over daily cash-out operations at each of the country's casinos. There are seven slot machine inspectors. All casino customers must register and show proof of identification prior to entering the casino premises. Casinos and gaming halls must provide information about winnings of greater than 5,000 lats (approximately \$10,000) to the Ministry of Finance and the FIU. In January 2004, the GOL mandated new bookkeeping procedures for casinos that allow for easier supervision and regulation. The Ministry of Finance has statutory authority to inquire about all casino owners and officers, and works with the FIU to review licensing applications.

There are four special economic zones in Latvia that provide a variety of significant tax incentives for manufacturing outsourcing, logistics centers, and trans-shipment of goods to other free trade zones. These zones are located at the free ports of Ventspis, Riga, and Liepaja, and in the inland city of Rezekne near the Russian and Belarusian Borders. There have been instances of smuggling involving cigarettes and meat products related to warehouses located in the free trade zone.

Latvia participates in MONEYVAL, and, as a member, underwent a mutual evaluation in March 2000 that resulted in many of the changes to its AML law and procedures. Latvia's second round of evaluations was completed in 2002, and the results were discussed during the MONEYVAL committee in May 2004. Latvia is now working to implement these measures as part of a National AML Action Plan.

Latvia ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of Proceeds from Crime in 1998, and the Council of Europe Criminal Law Convention on Corruption in December 2001. A Mutual Legal Assistance Treaty has been in force between the United States and Latvia since 1999. Latvia is a party to the 1988 UN Drug Convention, and in December 2001, ratified the UN Convention against Transnational Organized Crime.

The Control Service, Latvia's FIU, has been a member of the Egmont Group since 1999 and has cooperation agreements on information exchange with FIUs in Belgium, Bulgaria, Canada, the Czech Republic, Estonia, Finland, Guernsey, Italy, Lithuania, Malta, Russia, Slovenia, and Poland. In addition, Latvia has signed multilateral agreements with 10 accession countries for automatically exchanging information between the EU financial intelligence units using FIU.NET.

The GOL should continue to explore ways to improve cooperation between Latvian law enforcement agencies at the working level, and to strengthen its capacity and record in aggressively prosecuting and convicting those involved in financial crimes. The Financial and Capital Markets Commission must take tough, public action against those banks that have consistently shown themselves unable or unwilling to apply proper AML procedures. Latvia's success in combating money laundering will depend on its perseverance and political will to combat corruption and organized crime. The GOL should adopt and implement cross-border currency controls, pass asset seizure and forfeiture legislation, and more aggressively regulate its bureaux de change and its gaming industry. Although the GOL believes its existing laws are adequate to prosecute terrorist financing cases, this belief has not been tested. The GOL should therefore specifically criminalize terrorist financing to ensure that adequate legal tools are in place to successfully prosecute such offenses.

Lebanon

Lebanon is a financial hub for banking activities in the Middle East. It has one of the more sophisticated banking sectors in the region. The banking sector continues to record an increase in deposits. As of September 2004, 63 banks (53 commercial banks and ten investment banks) operated in Lebanon, with total deposits of \$53.5 billion. Three U.S. banks' also have representative offices operating in Lebanon: American Express Bank, the Bank of New York, and JP Morgan Chase Bank.

The Central Bank (Banque du Liban) (CBL) regulates all financial institutions and money exchange houses. Banking sources emphasize that Lebanon is not a significant financial center for money laundering; however, Lebanon's free market economy, combined with the tradition of bank secrecy and the extensive use of foreign currency (particularly dollars), allows for an environment conducive to laundering money from illicit sources due to a general lack of accountability and enforcement. The narcotics trade is not a principal source of proceeds in money laundering. Lebanon imposes no controls on the movement of capital. It has a substantial influx of remittances from expatriate workers and family members.

Lebanon has continued to make progress toward developing an effective money laundering and terrorism finance regime incorporating the Financial Action Task Force (FATF) Forty Recommendations, which culminated in the FATF's removal of Lebanon from the list of Non-Cooperative Countries or Territories (NCCTs) in June 2002. With Lebanon's removal from the NCCT list, the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) lifted its advisory, which had instructed all U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Lebanon. In October 2003, the FATF ended the monitoring period to which Lebanon had been subjected since June 2002.

In 2004, Lebanon passed a law requiring diamond traders to seek proper certification of origin for imported diamonds; the Ministry of Economy and Trade would be in charge of issuing certification for re-exported diamonds. This law, designed to prevent the traffic in conflict diamonds, will allow Lebanon to join the Kimberly Process, a voluntary joint government, international diamond industry, and civil society initiative to stem the flow of rough diamonds—that are used by rebel and terrorist movements to finance their operations—through imposing extensive requirements on participants to certify the legitimate origin of rough diamonds. In August 2003, Lebanon passed a decree prohibiting imports of rough diamonds from countries that are not members of the Kimberly Process.

In April 2001, Lebanon adopted Law No. 318, which created a framework for lifting bank secrecy, broadening the criminalization of money laundering beyond drugs, mandating suspicious transaction reporting, requiring financial institutions to obtain customer identification information, and facilitating access to banking information and records by judicial authorities. Under this law, money laundering is a criminal offense and punishable by imprisonment for a period of three to seven years and by a fine of no less than twenty million Lebanese pounds (\$13,267). The provisions of Law No. 318 expand the type of financial institutions subject to the provisions of the Banking Secrecy Law of 1956, to include institutions such as exchange offices, financial intermediation companies, leasing companies, mutual funds, insurance companies, companies promoting and selling real estate and construction, and dealers in high-value commodities. In addition, Law No. 318 requires companies engaged in transactions for high-value items (precious metals, antiquities) and real estate to report suspicious transactions.

These companies are also required to ascertain, through official documents, the identity and address of each client, and must keep photocopies of these documents as well as photocopies of the operation-related documents for a period of no less than five years. The CBL regulates private couriers who transport currency. Western Union and Money Gram are licensed by the CBL and subject to the provisions of this law. Charitable and nonprofit organizations must be registered with the Ministry of Interior, are required to have proper "corporate governance," including audited financial statements, and are subject to the same suspicious reporting requirements.

All financial institutions and money exchange houses are regulated by the CBL. Law 318 (2001) clarified the CBL's powers to require financial institutions to identify all clients, including transient clients, maintain records of customer identification information, request information about the beneficial owners of accounts, conduct internal audits, and exercise due diligence in conducting transactions for clients.

Law No. 318 also established a Financial Intelligence Unit (FIU), called the Special Investigation Commission (SIC), which is an independent entity with judicial status that can investigate money laundering operations and monitor compliance of banks and other financial institutions with the provisions of Law No. 318. The SIC serves as the key element of Lebanon's anti-money laundering regime and has been the critical driving force behind the implementation process. The SIC is

responsible for receiving and investigating reports of suspicious transactions. The SIC is the only entity with the authority to lift bank secrecy for administrative and judicial agencies, and it is the administrative body through which foreign requests for assistance are processed. The SIC circulates to all financial institutions the list of individuals and entities that have been included on the UNSCR 1267 Sanctions Committee's consolidated list. The SIC also circulates the list of individuals and entities that the U.S. Government and the European Union have designated under their relevant authorities. The SIC has signed a number of memoranda of understanding with other FIUs concerning international cooperation in anti-money laundering and combating terrorist financing. The SIC cooperates with competent U.S. authorities on exchanging records and information within the framework of Law 318.

During 2003, Lebanon adopted additional measures to strengthen efforts to combat money laundering and terrorism financing, such as establishing anti-money laundering units in customs and the police. In July 2003, Lebanon joined the Egmont Group of financial intelligence units. SIC reported increased inter-agency cooperation with other Lebanese law enforcement units such as Customs and the police. The cooperation led to an increase in the number of reported suspicious transactions reports (STRs), and as a result SIC initiated several investigations in 2004. Article 12 of Law 318 provides for immunity from prosecution for the chairman, staff, and delegates of the SIC, as well as for the financial institutions' money laundering reporting officers.

Since its inception, the SIC has been active in providing support to international case referrals. From January through November 2004, the SIC investigated over 176 cases involving allegations of money laundering and terrorist financing activities. Out of these cases, 13 were originated from U.S. Government (USG) requests. Seventeen of these cases were related to terrorist financing. Bank secrecy regulations were lifted in 68 instances, and three cases relating to money laundering were transmitted by the SIC to the State Prosecutor General to determine if these cases would be referred to the criminal court for trial. The Prosecutor General reported four cases to the SIC to freeze the suspects' assets. These cases involve 24 persons, 19 convicted in drug cases, four in currency counterfeiting, and one in theft. The Prosecutor General has also referred to the criminal court three cases involving four persons, two on drug-related charges and two on embezzlement charges, as well as a family of four persons facing terrorism charges based on a USG list of designated individuals. Total dollar amounts frozen by the SIC in all these cases is about U.S. \$3.2 million.

In October 2003, in order to more effectively combat money laundering and terrorist financing, Lebanon adopted two laws, Numbers 547 and 553. Law 547 expanded Article One of Law 318 (2001), criminalizing any funds resulting from the financing or contribution to the financing of terrorism or terrorist acts or organizations, based on the definition of terrorism as it appears in the Lebanese penal code (which distinguishes between "terrorism" and "resistance"). Law 547 also criminalized acts of theft or embezzlement of public or private funds, or their appropriation by fraudulent means, counterfeiting, or breach of trust, for banks and financial institutions, or falling within the scope of their activities. It also criminalized counterfeiting of money, credit cards, debit cards, and charge cards, or any official document or commercial paper, including checks. Law 553 added an article to the penal code (Article 316) on terrorist financing, which stipulates that any person who voluntarily, either directly or indirectly, finances or contributes to terrorist organizations or terrorists acts is punishable by imprisonment with hard labor for a period not less than three years and not more than seven years, as well as a fine not less than the amount contributed but not exceeding three times that amount.

Offshore banking is not permitted. Lebanon has no offshore trusts or offshore insurance companies. Legislative Decree No. 46, dated June 1983, governs offshore companies. It restricts offshore companies' activity to negotiating and signing agreements concerning business carried outside Lebanon or in the Lebanese Customs Free Zone; thus, offshore companies are barred from engaging in activities such as industry, banking, and insurance. All offshore companies must register with the Beirut Commercial Registry, and the owners of an offshore company must submit a copy of their identification. Moreover, the Registrar of the Beirut Court keeps a special register, in which all documents and information issued by the offshore company are to be retained.

There are currently two free trade zones operating in Lebanon, at the Port of Beirut and at the Port of Tripoli. The free trade zones fall under the supervision of Customs. Exporters moving goods into and out of the free zones submit a detailed manifest to Customs. If Customs suspects a transaction to be

related to money laundering or terrorism finance, it will report it to the SIC. Lebanon has no cross-border currency reporting requirements. However, since January 2003, Customs checks travelers randomly and notifies SIC when large amounts of cash are found.

Lebanese law allows for property forfeiture in civil as well as criminal proceedings. The Government of Lebanon enforces existing drug-related asset seizure and forfeiture laws. Current Lebanese legislation provides for the confiscation of assets the court determines to be related to or proceeding from money laundering or terrorist financing. In addition, vehicles used to transport narcotics will be seized. Legitimate businesses established from illegal proceeds after passage of Law 318 are also subject to seizure.

Lebanon was one of the founding members of the Middle East and North Africa Financial Action Task Force (MENAFATF), a FATF-styled regional body that promotes best practices to combat money laundering and terrorist financing in the region. It was inaugurated on November 30, 2004, in Bahrain, by 14 Arab countries. Lebanon will host the first MENAFATF plenary in the first quarter of 2005. Lebanon's SIC Secretary was elected to a one-year term as the first President of MENAFATF.

Lebanon has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision" and is compliant on 24 out of the 25 "Core Principles." Compliance with the pending "Core Principle" is being addressed, and a draft law providing legal protection to bank supervisors awaits the cabinet's approval. Banks are compliant with the Basel I capital accord and are preparing to comply with Basel II recommendations concerning capital adequacy.

Lebanon is a party to the 1988 UN Drug Convention, although it has expressed reservations to several sections relating to bank secrecy. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. It has not yet signed the UN International Convention for the Suppression of the Financing of Terrorism. Lebanon has expressed reservations on Article 11 of the UN International Convention for the Suppression of Terrorist Acts by Bombs, concerning the "extradition for political crime," claiming that it conflicts with Lebanon's penal code.

The Government of Lebanon continues to improve its efforts to develop an effective anti-money laundering and terrorism finance regime. It should encourage more efficient cooperation between financial investigators and other concerned parties, such as police and customs, which could yield significant improvements in initiating and conducting investigations. It should ratify both the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of Terrorist Financing.

Lesotho

Lesotho is not a financial center and does not have a significant money laundering problem. There is currently no legislation criminalizing money laundering or terrorist financing. In 2003, the Government of Lesotho (GOL) drafted a comprehensive "Money Laundering and Proceeds of Crime" bill; the bill was revised in 2004. As of early 2005, the revised draft bill was being reviewed before presentation to the Cabinet.

Lesotho requires banks to know the identity of their customers and to report suspicious transactions to the Central Bank. The GOL also requires banks to report all transactions exceeding 100,000 maloti (approximately \$16,000) to the Central Bank. Financial institutions are also required to maintain, for a period of ten years, all necessary records to enable them to comply with information requests from competent authorities.

No cases of money laundering were reported within the past year.

The GOL created a multi-agency committee to assist in its implementation of UNSCR 1373. The Commonwealth Secretariat is assisting members of the committee to formulate national policy and draft legislation on terrorism, and intends to sponsor related training for countries of the region.

Lesotho 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. Lesotho is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body. However, it has not yet signed the ESAAMLG Memorandum of Understanding (MOU).

The Government of Lesotho should criminalize money laundering and terrorist financing and should develop a viable anti-money laundering regime. It should sign the MOU for ESAAMLG.

Liberia

Liberia is not a regional financial center. However, Liberia is vulnerable to money laundering because it has been a major transshipment point for illegal diamond smuggling and illegal arms trading. Liberia is also a growing transit country for narcotics on their way to Europe from Nigeria. Liberia is also a fertile haven for drug cultivation, but it appears that most of the locally grown drug crop is used for domestic consumption. Liberian National Police (LNP) routinely stop shipment of marijuana moving from the interior to the Atlantic coast in order to extract bribes from the drivers, but then the shipments are allowed passage. During the Liberian civil war, which was declared officially over on August 11, 2003, Liberia was also a major transshipment point for illegal diamond smuggling, exploitative timber, and illegal arms trading. There were numerous allegations that the profits from these industries were being used to fund local militias and international terrorist activities. The connection to local militias has been documented. The international terrorist nexus may have existed to some degree, but its extent and sustainability is not well known.

There was a major shift in this activity after the end of the Liberian civil war. In September 2003, the UN adopted sanctions on arms, travel, diamonds and timber. With the arrival of UN peacekeepers in 2003, the illicit arms trade has virtually disappeared. UN timber sanctions have limited legal exports, but an illegal timber industry still existed in 2004. UN sanctions on diamonds have limited the ability of smugglers to use Liberia for operations. The National Transitional Government of Liberia (NTGL) has now met the conditions for becoming a participant in the Kimberley Process Certification Scheme, which requires that certain minimum standards be met in order to assure that diamonds being traded are not conflict diamonds and their origin is known. As of the end of 2004, however, the NTGL had yet to begin implementation of the certification scheme. Until that is done, diamond traders, including Eastern Europeans and Lebanese, can travel to Monrovia to purchase rough diamonds on the black market and then smuggle and export them out of Liberia, documenting them as coming from some other source, in violation of a UN Security Council Resolution prohibiting all trade in Liberian rough diamonds. The under valuation of diamond exports and use of double invoicing are common tactics employed to transfer value out of the country, often in conjunction with other illicit activities. There continue to be press allegations that al-Qaida has exploited the West African diamond trade, but such a connection has not been conclusively established. Cash in excess of \$10,000 must be declared to customs officers upon entering the country, and amounts over \$7,500 must be declared on departure. However, these regulations are not regularly enforced, and there is widespread corruption in Liberia's customs administration.

Money laundering is a criminal offense in Liberia, but there are no strong laws to prosecute persons who might be engaged in financing traffickers or terrorist organizations. Businesses may be seized for laundering money, and the government receives the proceeds of such seizures. The banking sector is thought to be complicit in money laundering, given the unregulated financial environment. There were no arrests and/or prosecutions for money laundering or terrorist financing during 2003 or 2004. Liberia suffers from institutional damage from 14 years of civil war and a weak UN civil police (UNMIL) mandate, which provides no arrest authority for the force. A weak transitional authority comprised of ex-combatant leaders, the NTGL is confronted by a host of problems and lacks the political will and the policing structure to deal with the issue of money laundering. The police force is ineffective, although UNMIL is attempting to restructure and reform the force. Border security is effectively non-existent. The judiciary is notoriously corrupt, and allegations of verdict buying are rampant. This can be considered a primary form of economic crime, as businesses operating in Liberia face the constant threat of state-enabled financial pressure and/or extortion. This corruption does not operate on any organized level and enriches only the officer, judge or minister who manages to extract payment.

Given the poorly supervised financial environment, private economic crime is considered to be widespread.

In November 2004, the Central Bank of Liberia (CBL) learned through Interpol of the circulation in Monrovia of counterfeit Liberian \$100 notes. At about the same time, there was an unverified report of counterfeit U.S. dollar notes in small denominations sighted in rural Liberia. The CBL contacted the Interpol West African Representative at Interpol Headquarters in Lyon, France, seeking further details, but no response has been received. One possible solution to this threat would be movement toward dollarization of the Liberian economy, an option promoted by many senior Liberian officials. The Governor of CBL is also considering the printing of newly designed notes as one of the ways to address the counterfeit bills problem.

Liberia's offshore activity is concentrated in the ship registry business, which is managed by the Liberian International Ship and Corporate Registry (LISCR), based in Virginia. The LISCR also manages Liberia's corporate registry. Offshore companies are permitted to issue bearer shares. In 2004, Liberia signed an accord with the U.S. Government giving the U.S. Navy and Coast Guard the right to search Liberian-flag vessels on the high seas.

In 2000, the Economic Community of West African States (ECOWAS) established the Intergovernmental Group for Action Against Money Laundering (GIABA), based in Dakar. Liberia is a member of GIABA. Liberia is not a party to the 1988 UN Drug Convention. In March 2003, Liberia became a party to the UN International Convention for the Suppression of the Financing of Terrorism. In September 2004, Liberia became a party to the UN Convention against Transnational Organized Crime.

The Government of Liberia should enact a comprehensive anti-money laundering regime that criminalizes money laundering and terrorist financing. Liberia should also enforce its cross-border reporting requirements, take steps to properly regulate its diamond industry, and implement and carry out its responsibilities as part of the Kimberley Process.

Liechtenstein

The Principality of Liechtenstein's well-developed offshore financial services sector, relatively low tax rates, loose incorporation and corporate governance rules, and tradition of strict bank secrecy have contributed significantly to the ability of financial intermediaries in Liechtenstein to attract funds from abroad. These same factors have historically made the country attractive to money launderers. Rumors and accusations of misuse of Liechtenstein's banking system persist in spite of the progress the principality has made in its efforts against money laundering.

Liechtenstein's financial services sector includes 16 banks, three non-bank financial companies, and 16 public investment companies, as well as insurance and reinsurance companies. The three largest banks cover ninety percent of the market. Liechtenstein's 230 licensed fiduciary companies and 60 lawyers serve as nominees for, or manage, more than 75,000 entities (mostly corporations, Anstalts, or trusts) available primarily to nonresidents of Liechtenstein. Approximately one third of these entities hold controlling interests in other entities, chartered in countries other than Liechtenstein. Laws permit corporations to issue bearer shares.

Like many of its neighbors, Liechtenstein has bearer passbook accounts as well. Although the owners were identified at the opening of the account, and due diligence practices should force any bearer to identify him/herself at the counter, there is still the possibility of transferability. The Government of Liechtenstein (GOL) has decided that bearer accounts will no longer be opened. Total assets under management in Liechtenstein banks increased by Swiss francs (CHF) 7.32 billion to CHF 103.415 billion (an increase of 7.6 percent). Due to outsourcing of business units, the number of banking staff decreased from 1,718 to 1,527 (a decrease of 11.1 percent).

Narcotics-related money laundering has been a criminal offense in Liechtenstein since 1993, but the first general anti-money laundering legislation was added to Liechtenstein's laws in 1996. Although the 1996 law applies some money laundering controls to financial institutions and intermediaries operating

in Liechtenstein, the anti-money laundering regime at that time suffered from serious systemic problems and deficiencies.

In response to international pressure, beginning in 2000, the GOL took legislative and administrative steps to improve its anti-money laundering regime. Specifically, the GOL amended its Due Diligence Act to incorporate "know your customer" principles that require banks and all other financial intermediaries to identify their clients and the beneficial owners of accounts. In addition, financial intermediaries must set up profiles of their clients, which go beyond identification to include their assets and how the clients obtained them. These laws also address the independence of accountants reporting on anti-money laundering compliance.

The GOL continues to make progress in strengthening its anti-money laundering regime and implementing recent reforms. Liechtenstein has increased the resources, both human and financial, devoted to fighting money laundering. Domestically, an inter-ministerial body called the Money Laundering Coordination Group meets quarterly to work on coordination between agencies. Attorneys have become covered entities, as have dealers in high-value goods; and the practice of "tipping off" is prohibited. The GOL has committed all financial institutions (banks and non-bank intermediaries) to obtain full identification of accounts' beneficial owners. The list of predicate offenses for money laundering has been expanded through Article 165 of the Criminal Code. Article 165 also criminalizes laundering one's own funds, and imposes higher penalties for money laundering. However, negligent money laundering is not addressed.

On August 18, 2004, the GOL announced its intention to intensify its fight against money laundering by undertaking a full revision of its Due Diligence legislation. The scope of the revision goes beyond the mirroring of European Union (EU) money laundering guidelines. The proposed revisions address issues such as implementing stronger know your customer regulations and procedures for risk-based monitoring. The revisions also call for the termination of existing relationships with shell banks, as well as the expansion of covered institutions to include casinos, auctioneers, dealers in precious goods, and auditors. The GOL believes the amended Due Diligence Law will increase the attractiveness and stability of the financial center of Liechtenstein. The revisions are expected to become effective on February 1, 2005.

Originally, the Financial Supervision Authority (FSA) was responsible for supervising all banks and fiduciaries licensed to operate in Liechtenstein. The FSA had the authority to conduct on-site spot checks and to request information as required. To remedy problems that arose with the implementation of the laws, a Due Diligence Unit (SSP) was also established to supervise compliance with anti-money laundering regulations. In 2002 the GOL assigned the SSP to handle all supervisory responsibilities, removing it entirely from the FSA. Currently, supervisory responsibility is split between SSP and the Financial Intelligence Unit (FIU). The SSP has completed over 80 audits covering over 25,000 banking relationships, and works effectively and closely with the FIU, the Office of the Prosecutor, and the police. The GOL is currently working on reorganizing this system via the establishment of an integrated regulatory unit, combining all sectors under one roof.

Liechtenstein's FIU, the Einheit fuer Finanzinformationen (EFFI), became operational in March 2001, and a member of the Egmont Group in June 2001. The FIU began operations on the basis of an executive order, but Liechtenstein formally adopted a law in May 2002 providing a statutory basis for the EFFI's authority. The EFFI has developed a system for suspicious transaction reporting (STR) analysis that involves internal examination, consultation with police, and a ten-day period to decide whether to forward the report to prosecutors for further action. EFFI has set up a database to analyze the STRs and has access to various governmental databases, although it cannot seek additional financial/bank information unrelated to a filed STR. Currently, banks, insurers, financial advisers, postal services, bureaux de change, attorneys, financial regulators, and casinos are required to file STRs. The GOL also reformed its STR system to permit reporting for a much broader range of offenses and based on a suspicion rather than the previous standard of "a strong suspicion." Nonetheless, the new law continues to require that financial institutions undertake some "clarification" of transactions before making a report, and there is some concern that this may be inhibiting the level of reporting or involve some risk of "tipping off." Another problem is that if a transaction is not completed, it is at the institution's discretion whether to report it. EFFI also has responsibility for analysis and transactions in the countering of terrorism financing.

In 2003, STR notifications dropped by 14.9 percent from the year before to 172. Of these 172 cases, 82 reports each were submitted by bank and professional trustees. During 2003, fraud, money laundering, and embezzlement were the most prevalent types of offense. The number of STRs involving fraud remained stable at 38 percent, while the STRs involving money laundering and embezzlement increased from 27.7 to 36.6 percent and from 9.9 to 15 percent respectively.

Although the number of STRs filed by financial institutions in Liechtenstein is relatively small, they have generated several money laundering investigations. The EFFI works closely with the prosecutor's office and law enforcement authorities, as well as with a special unit of the National Police, known as the EWOK, that deals with economic and organized crime. The EWOK is a special unit of eight to ten police officers established specifically to address money laundering crimes. When authorized to do so by a Special Investigative Judge, the police can use special investigative measures.

Well over 100 STRs made it to the Public Prosecutor's Office, which has doubled its staff to better handle the caseload. Three indictments have resulted from those 100 STR referrals. Liechtenstein has not adopted the EU-driven policy of reversing the burden of proof, i.e., making it necessary for the defendant to prove that he had acquired assets legally instead of the state's having to prove he had acquired them illegally. Most of the customers involved in money laundering activities were from Switzerland, Germany, and Austria. Customers from the United States (along with those from Britain) ranked fourth in STR filings. The EFFI reports that about \$260 million worth of suspicious money originated from the United States.

In 2003, the GOL received 129 inquiries from 18 foreign FIUs. This figure is almost twice the number received the previous year. In the same period, the EFFI submitted 145 inquiries to 18 different countries. This represents an increase of nearly 65 percent over the preceding year. The most frequent judicial cooperation requests originated from or were directed to Germany, Switzerland, and Austria.

In late 2002, the International Monetary Fund (IMF) assessed Liechtenstein's financial sector. The IMF's assessment was overall a positive one, noting that staffing deficiencies that existed throughout Liechtenstein's agencies (particularly the FSA and the Insurance Supervisory Authority) were due to lack of personnel and not the competence and professionalism of the existing staff. The IMF also found that while the then current legislation addressed terrorism financing to an extent, it was not completely covered.

Liechtenstein has in place legislation to seize, freeze, and share forfeited assets with cooperating countries. The Special Law on Mutual Assistance in International Criminal Matters gives priority to international agreements. Money laundering is an extraditable offense, and legal assistance is granted on the basis of dual criminality (i.e., the offense must be a criminal offense in both jurisdictions). Article 235A provides for the sharing of confiscated assets, and this has been used in practice.

A series of amendments to Liechtenstein law, adopted by Parliament on May 15, 2003, include a new catchall criminal offense for terrorist financing along with amendments to the Criminal Code, the Code of Criminal Procedure and the Due Diligence Act. Liechtenstein also has issued ordinances to implement UNSCRs 1267 and 1333. Amendments to the ordinances in October and November 2001 allow the GOL to freeze the accounts of individuals and entities that were designated pursuant to these UNSCRs. The GOL updates these ordinances regularly. On November 7, 2001, law enforcement entities in Switzerland, Liechtenstein, and Italy conducted raids and seized documents relating to Al Taqwa and Nada Management. Liechtenstein froze five Al Taqwa accounts and investigated five companies. In connection with these actions, the GOL responded to a mutual legal assistance request from Switzerland and opened a domestic investigation based on money laundering and organized crime. The total value reported frozen as of December 2003 by the Liechtenstein authorities based on UNSCR 1267 is \$145,300. According to the 2003 Liechtenstein report to the UN, six Taliban-related entities have been located in Liechtenstein. Their assets have been frozen and overlap with the \$145,300 reported above.

The GOL has also improved its international cooperation provisions in both administrative and judicial matters. A Mutual Legal Assistance Treaty (MLAT) between Liechtenstein and the United States

entered into force on August 1, 2003. The U. S. Department of Justice has acknowledged Liechtenstein's cooperation in the Al-Taqwa case and in other fraud and narcotics cases. The EFFI has in place a memorandum of understanding (MOU) with the Belgian FIU. Further MOUs are being prepared with Switzerland, France, Italy, Croatia, Poland, San Marino, and Lithuania. In addition, preliminary talks are being held with Russia and Germany.

Liechtenstein is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). The GOL is a party to 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. Liechtenstein has now ratified all twelve relevant international conventions and protocols. Liechtenstein has also signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Liechtenstein has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision" and has adopted the EU Convention on Combating Terrorism.

The Government of Liechtenstein has made consistent progress in addressing previously noted shortcomings in its anti-money laundering regime. It should continue to build upon the foundation of its evolving anti-money laundering/counterterrorist financing regime. Liechtenstein should accede to the 1988 UN Drug Convention. Liechtenstein should eliminate all bearer passbook accounts, require reporting of cross-border currency movements, and insist that trustees and other fiduciaries comply fully with all aspects of the new anti-money laundering legislation and attendant regulations, including the obligation to report suspicious transactions. The Einheit fuer Finanzinformationen, the Financial Intelligence Unit, should be given access to additional financial information. While Liechtenstein recognizes the rights of third parties and protects uninvolved parties in matters of confiscation, the government should distinguish between bona fide third parties and others.

Lithuania

With ten commercial banks, two foreign bank branches and 58 credit unions, Lithuania is not a regional financial center. Lithuania has established laws that have created adequate legal safeguards against money laundering; however, its geographic location still makes it a target for smuggled goods and tax evasion. The sale of narcotics does not generate a significant portion of financial crime and money laundering activity in Lithuania; and in 2004, there were no reported cases of money laundering related to narcotics. Most financial crimes are tied to tax evasion, smuggling, illegal production and sale of alcohol, capital flight, and profit concealment. The shadow economy is estimated to account for approximately 18 percent of the total gross domestic product of Lithuania.

The flow of smuggled goods, principally cigarettes and alcohol, from Russia and Belarus, is driven by price differentials between regional non-European Union (EU) countries, Lithuania, and the West. A pack of cigarettes in Lithuania can cost one-fourth the price of a pack in the rest of the EU. Experts anticipate that smuggling will increase when Lithuania adopts the minimum EU excise rate in 2009. Smuggled goods from China are also a source of illicit income through underreporting of the goods' value to Customs and the Lithuanian Tax Administration in order to avoid the value added tax (VAT). With the removal of border checkpoints after Lithuania's accession to the EU on May 1, 2004, Customs officials are only able to inspect Chinese goods if they receive information that allows them to track the goods to Lithuanian warehouses.

Lithuania is not an offshore financial center; however, the State Tax Administration states that it has encountered cases of Lithuanian companies purchasing goods in Russia at lower prices, and then attributing higher prices to offshore companies outside Lithuania, in order to conceal their illicit profits.

Lithuania has Free Economic Zones (FEZ) in the cities of Klaipeda, Kaunas, and Siauliai. Klaipeda is the country's largest seaport, Kaunas is an air, road, and rail hub and Siauliai has the largest airport in the Baltic region. There are currently four businesses operating in the Klaipeda FEZ, the largest of Lithuania's zones, with 130 million euros (\$174 million) in total foreign investment. Klaipeda has signed contracts with four more enterprises to begin operations in 2005. Companies operating the FEZs receive the same legal guarantees as those operating elsewhere. Parliament approved a law on the fundamentals of FEZs in June 1995 that regulates conditions for the establishment of companies in these zones. Businesses in the FEZs receive corporate tax reductions for the first 10 years of

existence, customs tax exemptions, VAT exemptions and discounted land leases. Lithuania's EU accession agreement permits the indefinite operation of existing free trade zones, but precludes the establishment of new ones. The Government of Lithuania (GOL) has no indication that any of the FEZs are being used in trade-based money laundering schemes or by the financiers of terrorism.

The GOL criminalized the act of money laundering in 1997 with the Law on the Prevention of Money Laundering (LPML), which entered into force in 1998. Lithuania does not have an "all serious crimes" anti-money laundering law. On January 29, 2004, the Lithuanian Parliament amended the definition of money laundering in Article 216 of the Criminal Code. The law now says that a money launderer, i.e., any person or enterprise, "who carries out financial operations with his own or another person's money or property, or with part of them, knowing that such money or property was acquired in a criminal way, concludes the agreements, uses them in economic or commercial activity, or makes a fraudulent declaration that they are derived from legal activity, for the purposes of concealing or legitimizing these proceeds shall be punished by imprisonment for a term of up to seven years."

Individuals must declare to Customs cash they transport into or out of the country in excess of LTL 10,000 (approximately \$3,800). Since Lithuania's EU accession, this requirement applies only to non-EU citizens. Customs authorities must report to the Financial Crimes Investigative Service (FCIS), Lithuania's financial intelligence unit, within seven working days, any violations for failure to declare currency in excess of 50,000 litas (approximately \$19,200).

On November 25, 2003, the Lithuanian Parliament adopted the Amendment to the Law on the Prevention of Money Laundering (the LPML Amendment), which came into force on January 1, 2004, in order to comply with the obligations specified in the EU's Second Money Laundering Directive and terrorism convention, as well those in the FATF's Forty Recommendations.

Four new regulations were published in 2004 to implement the new requirements of the LPML. In July, the cabinet expanded the criteria to identify suspicious money operations. The new list includes 25 detailed criteria, such as an unusual increase in cash payments, cashing 100,000 litas (approximately \$40,000) or more within seven days, structuring funds under the reporting requirements, and cashing more than 100,000 litas (approximately \$40,000) in seven days using a foreign credit card.

The LPML Amendment expands the types of financial and non-financial entities subject to the requirement to report suspicious or unusual activity of any amount, and the identity of the clients involved, to the FCIS. In addition to financial institutions, the reporting requirements now extend to post offices, lawyers associations, investment companies, and insurance companies. It also expands the list of professions that have to implement preventive measures against money laundering to include auditors, accountants, notaries, tax advisors, enterprises providing bookkeeping or tax consultation services, lawyers and their assistants, casinos, and people who are engaged in commercial or economic activity related to real estate, precious stones, metals, works of art, antiquarian cultural valuables, or other high value goods. The Cabinet also adopted new rules to provide the FCIS information on the identity of subjects involved in suspicious transactions. The regulation establishes a list of data and documents that a bank or other financial institution must request from a person whose transaction requires customer identification. The Cabinet also adopted detailed rules governing the management of suspicious transactions registers. Banks are aware of their reporting requirements and although not very happy about the burden imposed on them, have been very cooperative and report and exchange information of their own accord, not only upon request of the FCIS.

For large transactions exceeding 50,000 litas (approximately \$19,200), the LPML requires all financial institutions to collect information on the identity of the customer, maintain the documents for a minimum of ten years, and report the activity to the FCIS within seven days of the transaction. The LPML Amendment also mandates a stricter customer identification policy for insurance companies and casinos. Insurance companies must identify customers whose annual insurance payment exceeds 8,500 litas (approximately \$3,270). Casinos must register patrons who wager, win, or exchange currency for chips for amounts larger than 3,500 litas (approximately \$1,345). Although the insurance companies and casinos are not obligated to report customer identification, they usually file this information with the FCIS. Starting in January 2004, all taxpayers were required to submit an annual income and property declaration to the Tax Inspectorate. Prior to this, only politicians, business

managers, and those purchasing property with a value in excess of 46,000 litas (approximately \$17,700), were obliged to submit declarations. The change to the regulation closes the loophole that allowed funds that were undeclared or from unknown sources to be used to purchase real estate.

Credit institutions (banks) are all privately owned and also function as bureaux de change. They must be licensed by the Central Bank of Lithuania (BOL) and follow special record keeping requirements. The BOL has the authority to examine the books, records, and other documents of all financial institutions and casinos. The BOL then informs law enforcement authorities of any violations recorded during its examination. The LPML protects bankers who report required information to the FCIS. There were no investigations started in 2004 against bank officials for complicity in money laundering. Insurance and brokerage companies are under supervision by the Insurance and Brokerage Commission, which can execute administrative measures or revoke a company's license.

The FCIS, located in the Ministry of the Interior (formerly the Tax Police Department), is Lithuania's Financial Intelligence Unit (FIU). There were 156 suspicious transaction reports (STRs) filed with the FCIS in 2002, 115 in 2003, and only 65 in 2004. In addition to STRs, the FCIS receives currency transaction reports (CTRs) for currency exchanges over 50,000 litas (approximately \$19,200). There were 43,164 CTRs filed with the FCIS in 2002, 1,020,668 in 2003, and 747,748 in 2004. In total, there have been approximately 423 STRs and 3,921,000 CTRs filed with the FCIS since 1998.

The FCIS reported that there were no convictions for money laundering in 2004; however the Prosecutor's Office initiated criminal proceedings for nine suspected cases of money laundering, and seven additional cases of suspected tax evasion, document forgery, and smuggling. The nine suspected money laundering cases were uncovered due to an investigation by the FCIS into 119 suspicious bank transactions. The lack of adequate information sharing among the FCIS, Customs, and Border Guards, limited training, and corruption of officers at the regional level can sometimes hinder investigations and cooperation among the Lithuanian law enforcement agencies; although in recent years, the GOL has made an effort to provide several training seminars to various law enforcement entities.

On May 1, 2003, the new Criminal Code of the Republic of Lithuania came into force, replacing the 1961 Criminal Procedures Code. Article 216 of the Code increases the role of prosecutors and closes loopholes with regard to corruption. Previously, the police could freeze/seize assets on their own authority, but now they must go to the prosecutors with the named property and receive authority to freeze/seize the assets of a suspected crime. The suspect may appeal to a higher court, and the decision of the Supreme Court is final.

Prosecutors may prohibit individuals suspected of involvement in money laundering or other financial crimes from disposing of property for a period of up to six months. Freezing assets for a longer period requires a court order. The court can seize only property which the criminal or accomplice used as an instrument of a crime or a means to commit a crime or which was acquired as the direct result of a criminal act. The court may seize assets in order either to ensure the possibility of forfeiture in a criminal case or to secure a judgment in a civil action. Upon conviction of money laundering or terrorism financing, individuals may be subject to fines, restrictions on operating any companies owned by them, or liquidation of property.

In November 2004, the Cabinet approved the new "rules on stopping suspicious money operations and providing information to the FCIS." These rules entitle the FCIS to request any legal or natural entities (except notaries) to freeze suspicious money transactions for 48 hours. The FCIS may extend the freeze if an investigation is started. The FCIS froze over 25 million litas (approximately \$9.6 million) in assets from January through October 2004. In 2003, the FCIS froze over 52 million litas (approximately \$20 million). There are no figures available for the total value of forfeited crime-related assets. Proceeds from seizures and forfeitures go into the national budget. Lithuania does not share crime-related assets with other governments.

Article 250 of the Lithuanian Criminal Code, which came into effect in April 2003, establishes the financing of terrorism as a crime and prescribes imprisonment of four to twenty years. The GOL has independent national authority to freeze assets linked to terrorism. The amended LPML includes the direct or indirect funding of terrorism within the definition of terrorist financing. The LPML obligates the

reporting institutions to notify the FCIS immediately about money transactions (both cash and non-cash) that might be related to terrorist financing, irrespective of the amount of the transaction. The LPML Amendment also includes terrorist financing as a predicate offense for money laundering.

In April 2004, the Parliament passed a law on the Implementation of Economic and other International Sanctions, which makes international financial sanctions, including terrorist sanctions, valid in Lithuania. Provisions of the law apply to the actions of Lithuanian legal and natural persons in foreign countries, irrespective of whether foreign countries implement international sanctions as applied by Lithuania. The State Security Department, the lead GOL agency coordinating efforts against terrorism, and the FCIS circulate to financial institutions the names of all terrorist individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list and the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224. On May 15, 2003, the Governmental Decree "On the Approval of the Criteria in Observance Whereof a Monetary Operation is Considered Suspicious" was supplemented. One of the new criteria states that if data identifying a bank customer, a representative of the customer conducting a transaction, or the subject on behalf of whom the monetary operation is being conducted, correspond to the data about persons related to terrorist activity, and included on the circulated lists, such person is to be considered suspicious, and his transactions treated accordingly. To date, the government has provided no indication that searches have yielded evidence of terrorist assets. Charitable and nonprofit entities do not play a role as conduits to finance terrorism. Alternative remittance systems reportedly do not exist in Lithuania.

Lithuania has signed memoranda on exchange of money laundering-related financial and intelligence information with the FIUs of Belgium, Croatia, the Czech Republic, Estonia, Finland, Latvia, Bulgaria, Slovenia, and Poland. Lithuania and Germany signed an agreement in 2001 to cooperate in the fight against organized crime and terrorism. The FCIS signed four agreements in 2004 covering cooperation against economic and financial crimes, money laundering, and the exchange of information with the European Anti-Fraud Office, the Azerbaijan Revenue Service, the Italian Guardia Di Finanza and the Estonian Tax and Customs Board. There is a mutual legal assistance treaty (MLAT) between the United States and Lithuania, which entered into force in 1999. Lithuanian law enforcement cooperates with the United States in investigations and the exchange of information related to money laundering, financial crimes, terrorist financing and customs issues. In 2004, FCIS responded to five FBI and FinCEN requests in 2004 for cooperation on money laundering and fraud cases. The police and FCIS continue to cooperate with U.S. law enforcement bodies on a significant Russian Organized Crime/Money Laundering investigation. Through the MLAT and other requests, the GOL provided bank records and other evidence to the United States to be used at trial; and Lithuania allowed bank officials to travel to the United States to testify at trial.

Lithuania 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. Lithuania is also a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Lithuania is a member of the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and the FCIS is a member of the Egmont Group.

The Government of Lithuania should continue its efforts to enhance its anti-money laundering/counterterrorist financing regime. In particular, Lithuania should ensure that its asset forfeiture regime is adequate and should consider enactment of measures to allow asset sharing with third party jurisdictions that participate in the investigation of international money laundering cases. Lithuania also should ensure that non-governmental organizations, including charities, are adequately supervised and regulated to prevent their abuse by criminal or terrorist groups. Lithuania should provide adequate resources and training to its law enforcement entities to ensure the successful investigation and prosecution of money laundering and terrorist financing.

Luxembourg

Despite its standing as the smallest member of the European Union (EU), Luxembourg is one of the largest financial centers in the world. Its strict bank secrecy laws allow international financial institutions to benefit from and operate a wide range of services and activities. With over a trillion euros in assets managed by the global investment fund industry, Luxembourg joins the United States

and France as one of the top three domiciles for investment fund activity. Luxembourg is considered an offshore financial center, with foreign-owned banks accounting for a majority of the nation's total bank assets. Although there are a handful of domestic banks operating in the country, the majority of banks registered in Luxembourg are foreign subsidiaries of banks in Germany, France, and Belgium. For this reason (and also due to the proximity of these three nations to Luxembourg), a significant share of Luxembourg's suspicious transaction reports (STR) are generated from transactions involving clients in these three countries.

While Luxembourg is not a major hub for illicit drug distribution, the size and sophistication of its financial center create opportunities for drug-related money laundering and terrorist financing. According to a December 2004 International Monetary Fund (IMF) report, Luxembourg has "a solid criminal legal framework and supervisory system" to counter money laundering and terrorist financing, and is "broadly compliant with almost all of the Financial Action Task Force (FATF) Recommendations." The report also notes that Luxembourg's high level of cross-border business, obligatory banking secrecy, private banking, and "certain investment vehicles" create a challenging environment for countering money laundering and terrorist financing. Further complicating the scenario is the fact that Luxembourg currently has no cross-border reporting requirements.

As of November 2004, 165 banks, with a balance sheet total reaching 689 billion euros, were registered within Luxembourg. In addition, as of December 2004, a total of 1,951 "undertakings for collective investment" (UCIs), or mutual fund companies, whose net assets had reached over a trillion euros by the end of October 2004, were operating out of Luxembourg. Luxembourg has about 15,000 holding companies, 95 insurance companies, and 270 reinsurance companies. As of November 2004, the Luxembourg Stock Exchange listed over 30,000 securities issued by nearly 4,300 entities from about 100 different countries. Legislation passed in June 2004 permits the registration of venture capital funds (*Societe d'investissement en capital a risqué*, or "SICAR").

Luxembourg's financial sector laws are modeled to a large extent on EU directives. The Law of July 7, 1989, updated in 1998, serves as Luxembourg's primary anti-money laundering (AML) law, criminalizing the laundering of proceeds for an extensive list of predicate offenses, including narcotics-trafficking. The Law of April 5, 1993 implements the EU's 1991 First Anti-Money Laundering Directive (Directive on the Prevention of the Use of the Financial System for the Purpose of Money Laundering) and includes among its provisions customer identification, record keeping, and suspicious transaction reporting requirements. The Act of August 1, 1998 expands the list of covered entities and adds corruption, weapons offenses, and organized crime to the list of predicate offenses for money laundering. The Act of June 10, 1999 further expands anti-money laundering provisions. Fraud committed against the European Union has also been added to the list of offenses. Although only natural persons are currently subject to the law, a bill is under consideration for 2005 that would add legal persons to its jurisdiction.

In an effort to bring Luxembourg into full compliance with the requirements of the EU's Second Anti-Money Laundering Directive, on November 12, 2004, Parliament approved legislation updating the nation's anti-money laundering laws. These legislative amendments formally transferred the requirements of the EU's Second Money Laundering Directive into domestic law. The 2004 amendments also broaden the scope of institutions subject to money laundering regulations. Under the current law, banks, pension funds, insurance brokers, UCIs, management companies, external auditors, accountants, notaries, lawyers, casinos and gaming establishments, real estate agents, tax and economic advisors, domiciliary agents, insurance providers, and dealers in high-value goods, such as jewelry and cars, are now considered covered institutions. AML law does not cover SICAR entities. All covered entities are required to file STRs with the Financial Intelligence Unit (FIU) and, though not legally required, are expected to send a copy of the report to their respective oversight authorities. Financial institutions are required to retain pertinent records for a minimum of five years; additional commercial rules require that certain bank records be kept for up to ten years. The AML law also contains "safe harbor" provisions that protect obliged individuals and entities from legal liability when filing STRs or assisting government officials during the course of a money laundering investigation. The 2004 amendments also contain new requirements regarding financial institutions' internal AML programs. It imposes stricter "know your customer" requirements, mandating their application to all new and existing customers, including beneficial owners, trading in goods worth at least 15,000 euro. If the transaction or business relationship is remotely based, the law details measures required for customer identification. Financial institutions must ensure adequate internal

organization and employee training, and must also cooperate with authorities, proactively monitoring their customers for potential risk. "Tipping off" has also been prohibited.

Although Luxembourg's bank secrecy rules may appear vulnerable to abuse by those transferring illegally obtained assets, under Luxembourg law the secrecy rules are waived in the prosecution of money laundering and other criminal cases. No court order is required to investigate otherwise secret account information in suspected money laundering cases, or when a STR is filed. Financial professionals are obliged to cooperate with the public prosecutor in investigating such cases.

The Commission de Surveillance du Secteur Financier (CSSF) is an independent government body under the jurisdiction of the Ministry of Finance, that serves as the prudential oversight authority for banks, credit institutions, the securities market, some pension funds, and other financial sector entities covered by the country's anti-money laundering and terrorist financing laws. The Luxembourg Central Bank oversees the payment and securities settlement system, and the Commissariat aux Assurances (CAA), also under the Ministry of Finance, is the regulatory authority for the insurance sector. The identities of the beneficial owners of accounts are available to all entities involved in oversight functions, including registered independent auditors, in-house bank auditors, and the CSSF.

Under the direction of the Ministry of the Treasury, the CSSF has established a committee, the Comité de Pilotage Anti-Blanchiment (COPILAB), composed of supervisory and law enforcement authorities, the FIU and financial industry representatives. The committee meets monthly to develop a common public-private approach to strengthen Luxembourg's AML regime.

No distinctions are made in Luxembourg's laws and regulations between onshore and offshore activities. Foreign institutions seeking establishment in Luxembourg must demonstrate prior establishment in a foreign country and meet stringent minimum capital requirements. Companies must maintain a registered office in Luxembourg, and background checks are performed on all applicants. A ministerial decree published in July 2004 modified the Luxembourg Stock Exchange's internal regulations to make it easier to list offshore funds, provided the fund complies with CSSF requirements (as detailed in Circular 04/151). Also, a government registry publicly lists company directors. Although nominee (anonymous) directors are not permitted, bearer shares are permitted. Banks must undergo annual audits under the supervision of the CSSF (CSSF reg. No. 27). Independent auditors have established a peer review procedure in compliance with an EU recommendation on quality control for external audit work to assure the adherence to international standards on auditing.

Established within Luxembourg's Ministry of Justice, the Cellule de Renseignement Financier FIU-LUX serves as Luxembourg's FIU, receiving and analyzing STRs from the financial sector, and seizing and freezing assets when necessary. As part of modifications made in 2004 to Luxembourg's money laundering law, the FIU's official status as a division of the Ministry of Justice Public Prosecutor's office was formalized. While the FIU's superiors can require the FIU to take action against a suspect, they cannot prevent the FIU from prosecuting. Some members of the financial community continue to call for the creation of an administrative FIU body separate from the office of the public prosecutor. The FIU is responsible for providing members of the financial community with access to updated information on money laundering and terrorist financing practices. It also works closely with various regulatory bodies such as the CSSF and the CAA. The FIU and CSSF work together in investigations involving significant money laundering cases.

In order to obtain a conviction for money laundering, prosecutors must now prove criminal intent rather than negligence. Negligence, however, is still scrutinized by the appropriate sector oversight authority, with sanctions for noncompliance varying from 1,250 to 1,250,000 euros.

As of mid-December 2004, covered institutions had filed a total of 914 STRs. This figure represents a steady increase from previous years (832 STRs were filed in 2003, 631 in 2002, and 431 in 2001). At the end of 2004, three individuals were jailed pending charges of laundering approximately 50 million euros in cash of drug-related money. These cases have involved consistent, close coordination between Luxembourg and foreign law enforcement agencies. An ongoing investigation from 2002 concluded in mid-2004 with a conviction and a sentence of seven years in prison; the case remains under appeal by the defendant. Fourteen additional money laundering cases are still open and under

investigation by law enforcement officials. There is a consistently high level of cooperation between U.S. and Luxembourg law enforcement authorities on money laundering investigations.

The law only allows for criminal forfeitures and public takings. Drug-related proceeds are pooled in a special fund to invest in anti-drug abuse programs. Funds found to be the result of money laundering can be confiscated even if they are not the proceeds of a crime. The GOL can, on a case-by-case basis, freeze and seize assets, including assets belonging to legitimate businesses used for money laundering. The government has adequate police powers and resources to trace, seize, and freeze assets without undue delay. Luxembourg has a comprehensive system not only for the seizure and forfeiture of criminal assets, but also for the sharing of those assets with other governments.

Luxembourg authorities have been actively involved in bilateral and international fora and training in order to become more effective at fighting the financing of terrorism. In July 2003, Luxembourg's parliament passed a multifaceted counterterrorism financing law known as *Projet de Loi 4954*, designed to strengthen Luxembourg's ability to fight terrorism and terrorist financing. The law defines terrorist acts, terrorist organizations, and terrorism financing in the Luxembourg Criminal Code. In addition, the specific crimes, as defined, will carry penalties of 15 years to life. The law also extends the definition of money laundering to incorporate new terrorism-related crimes, and, with regard to Special Investigative Measures, provides an exception to notification requirements in selected wiretapping cases. The November 2004 amendments bring Luxembourg into compliance with the FATF's Special Recommendation Number Four, by extending the reporting obligations of the financial sector to terrorist financing, independently from any context of money laundering. Covered institutions now are required to report any transaction believed to be related to terrorist financing, regardless of the source of the funds.

The Ministry of Justice studies and reports on potential abuses of charitable and non-profit entities to protect their integrity. Luxembourg authorities have not found evidence of the widespread use in Luxembourg of alternative remittance systems such as hawala, black market exchanges, or trade-based money laundering. Officials comment that existing AML rules would apply to such systems, and no separate legislative initiatives are currently being considered to address them.

In an effort to identify and freeze the assets of suspected terrorists, the GOL actively disseminates to its financial institutions information concerning suspected individuals and entities on the UNSCR 1267 Sanctions Committee's consolidated list and the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224. Luxembourg does not yet have legal authority to designate terrorist groups. The government is currently working on draft legislation with regard to this issue. Luxembourg strives to cooperate with and provide assistance to foreign governments in their efforts to trace, freeze, seize and forfeit assets. Dialogue and other bilateral proceedings between the GOL and the United States have been particularly extensive.

Furthermore, authorities can and do take action against groups targeted through the EU designation process, the UN, or on behalf of bilateral requests from other countries. Under the 2004 amendments to Luxembourg's AML law, bilateral freeze requests are limited to a new maximum of three months; designations under the EU, UN, or international investigation processes continue to be subject to freezes for an indefinite time period. Upon request from the United States, Luxembourg froze the bank accounts of individuals suspected of involvement in terrorism. Luxembourg has also independently frozen several accounts, resulting in court challenges by the account holders. Since 2001, over \$200 million in suspect accounts have been frozen by Luxembourg authorities pending further investigations (most of the assets were subsequently released).

Luxembourg laws facilitating international cooperation in money laundering include the Act of August 8, 2000, which enhances and simplifies procedures on international judicial cooperation in criminal matters; and the Law of June 14, 2001, which ratifies the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. During its EU council presidency from January through June 2005, Luxembourg will play a role in shepherding the draft of the Third Money Laundering and Terrorist Financing Directive through the EU's legislative process.

Luxembourg is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. In November 2003, Luxembourg ratified the UN International Convention for the Suppression of the Financing of Terrorism.

Luxembourg is a member of the European Union and the FATF. The Luxembourg FIU is a member of the Egmont Group and has negotiated memoranda of understanding with several countries, including Belgium, Finland, France, Korea, Monaco, and Russia. Luxembourg and the United States have had a Mutual Legal Assistance Treaty (MLAT) since February 2001. Luxembourg's Agency for the Transfer of Financial Technology (ATTF) has consistently provided training and acted as a consultant in money laundering matters to government and banking officials in countries whose regimes are in the development stage. Since 2001, ATTF has provided assistance to government and banking officials from Bosnia, Bulgaria, Croatia, Cape Verde, China, the Czech Republic, Egypt, Macedonia, Romania, Russia, and Ukraine. The ATTF budget has grown steadily from approximately 700,000 euros in 2000, to over 2 million euros in 2004.

The Government of Luxembourg has enacted laws and adopted practices that help to prevent the abuse of its bank secrecy laws, and has enacted a comprehensive legal and supervisory anti-money laundering regime. However, further action should be taken to address issues such as the lack of a distinct legal framework for the Financial Intelligence Unit and the small number of money laundering investigations and prosecutions. The Financial Intelligence Unit should work with regulatory agencies to formulate and issue substantive guidance to financial institutions on anti-money laundering trends and techniques. Luxembourg should continue to strengthen enforcement to prevent abuse of its financial sector, and should continue its active participation in international fora. Luxembourg should enact legislative amendments to address the continued use of bearer shares and the lack of cross-border currency reporting requirements.

Macau

Under the one country-two systems principle that underlies Macau's 1999 reversion to the People's Republic of China, Macau has substantial autonomy in all areas except defense and foreign affairs. Macau's free port, lack of foreign exchange controls, and significant gambling industry create an environment that can be exploited for money laundering purposes. In addition, Macau is a gateway to China, and can be used as a transit point to remit funds and criminal proceeds to and from China. Macau has a small economy and is not a financial center. Its offshore financial sector is not fully developed. Macau's gambling industry, however, remains particularly vulnerable to money laundering.

In 2001, the IMF assessed Macau's anti-money laundering measures as part of a study of offshore financial centers, published on March 12, 2004. The IMF concluded, "Current anti-money laundering measures as they related to the BCP (Basel Committee's 'Core Principles for Effective Banking Supervision') and ICP (Insurance Core Principles issued by the International Association of Insurance Supervisors) need strengthening." In a prior IMF "Assessment of the Regulation and Supervision of the Financial Sector of Macao" paper published in August 2002, the IMF concluded that Macau was "materially noncompliant" with the money laundering principles of the Basel Committee's "Core Principles for Effective Banking Supervision," and recommended a number of improvements.

Main money laundering methods in the financial system are wire transfers; currency exchange/cash conversion; and the use of nominees, trusts, family members, or third parties to transfer cash. Macau has taken several steps over the past two years to improve its institutional capacity to tackle money laundering. These will be helpful if they lead to greater legal enforcement. In October 2002 the Judiciary Police set up the Fraud Investigation Section. One of its key functions is to receive all suspicious transaction reports (STRs) in Macau and to undertake subsequent investigations.

In 2003, the Macau Special Administrative Region Government (MSARG) also prepared money laundering legislation that would incorporate the revised FATF Forty Recommendations and establish a Financial Intelligence Unit (FIU). In 2004, the MSARG continued interagency consultations on the bill. The FIU will be set up after passage of the legislation. In 2004, an interagency body consisting of representatives from the Monetary Authority of Macau, Macau Customs Service, Unitary Police, International Law Office, Gaming Inspection and Coordination Office, and other economic and law-

enforcement agencies, continued to discuss the mechanics of the establishment of the FIU and exchanged information in the FIU's absence.

The government also drafted a terrorist financing bill that, if passed and enforced, would strengthen its efforts. Macau's financial system is governed by the 1993 Financial System Act and amendments, which lay out regulations to prevent use of the banking system for money laundering. It imposes requirements for the mandatory identification and registration of financial institution shareholders, customer identification, and external audits that include reviews of compliance with anti-money laundering statutes. The 1997 Law on Organized Crime criminalizes money laundering for the proceeds of all domestic and foreign criminal activities, and contains provisions for the freezing of suspect assets and instrumentalities of crime. Legal entities may be civilly liable for money laundering offenses, and their employees may be criminally liable.

The 1998 Ordinance on Money Laundering sets forth requirements for reporting suspicious transactions to the Judiciary Police and other appropriate supervisory authorities. These reporting requirements apply to all legal entities supervised by the regulatory agencies of the MSARG, including pawnbrokers, antique dealers, art dealers, jewelers, and real estate agents. There is no significant difference between the regulation and supervision of onshore and of offshore financial activities.

Macau law provides for forfeiture of cash and assets that assist in or are intended for the commission of a crime. During 2003 and the first ten months of 2004, the Narcotics Division of the Police seized almost 67,000 patacas (\$8,375), 35 cell phones, five cars, and five motorcycles.

The gaming sector and related tourism are critical parts of Macau's economy. Taxes from gaming comprised 75 percent of government revenue in 2003, while revenues from gaming increased 45 percent during the first ten months of 2004, compared with a year earlier. The MSARG ended a long-standing gaming monopoly early in 2002 when it awarded concessions to two additional operators, the U.S.-based Venetian and Wynn Corporations. The Venetian opened its first casino, the Sands, on May 18, 2004. In addition, MGM announced its intention to open a casino in conjunction with the previous monopoly operator, Sociedade de Jogos de Macau (SJM), owned by local businessman Stanley Ho. The Venetian, Wynn, and MGM are scheduled to open casinos in 2006.

Under the old monopoly framework, organized crime groups were, and continue to be, associated with the gaming industry through their control of VIP gaming rooms, and activities such as racketeering, loan sharking, and prostitution. The VIP rooms catered to clients seeking anonymity within Macau's gambling establishments, and were particularly removed from official scrutiny. As a result, the gaming industry, in particular, provided an avenue for the laundering of illicit funds and served as a conduit for the unmonitored transfer of funds out of China.

The Sands, unlike SJM and new entrant Galaxy, does not cede control of its VIP gaming facilities to outside organizations, and organized crime has therefore is not believed to have penetrated this operation.

The MSARG's draft money laundering legislation includes provisions designed to prevent money laundering in the gambling industry. The legislation aims to make money laundering by casinos more difficult, improve oversight, and tighten reporting requirements. On June 7 2004, Macau's Legislative Assembly passed legislation allowing casinos and junket operators to make loans, in chips, to customers. The law requires both casinos and junket operators to register with the government.

Terrorist financing is criminalized under the Macau criminal code (Decree Law 58/95/M of November 14, 1995, Articles 22, 26, 27, and 286). The MSARG has the authority to freeze terrorist assets, although a judicial order is required. Macau financial authorities directed the institutions they supervise to conduct searches for terrorist assets, using the list, listed on the UN 1267 Sanctions Committee consolidated list and the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224. No assets have been found to date.

The Macau legislature passed an counterterrorism law in April 2002 that is intended to assist with Macau's compliance with UNSCR 1373. The legislation criminalizes violations of UN Security Council

resolutions, including counterterrorist resolutions, and strengthens counterterrorist financing provisions. The UN International Convention for the Suppression of the Financing of Terrorism will apply to Macau when the PRC accedes to it.

In 2003, the MSARG drafted a new counterterrorism bill aimed at strengthening counterterrorist financing measures. As of December 2004, the bill was under consultation within the administration. The law-also drafted to comply with UNSCR 1373-would make it illegal to conceal or handle finances on behalf of terrorist organizations. Individuals would be liable even if they were not members of designated terrorist organizations themselves. The Macau Government drafted additional measures which are still under discussion. These include an administrative regulation giving the Chief Executive of Macau the authority to designate terrorists and freeze assets of terrorists not on the UNSCR 1267 Sanctions Committee's consolidated list, and permitting assets to be frozen without first obtaining a court order. The legislation would also allow prosecution of persons who commit terrorist acts outside of Macau, and would mandate stiffer penalties.

The increased attention paid to financial crimes in Macau after the events of September 11 has led to a general increase in the number of suspicious transaction reports (STRs). Macau's Judiciary Police received 107 STRs in 2003, and 86 from January 1 to October 31, 2004, from individuals, banks, companies, and government agencies. Of these 193 STRs, 21 originated from the gaming sector. Seven STRs resulted in special investigations that were ongoing as of the end of 2004, although none of these investigations has resulted in prosecutions.

In 2003, the MSARG drafted a new money laundering bill that broadened the definition of money laundering to include all serious predicate crimes. The legislation also mandated greater customer identification, a more comprehensive reporting system regarding suspicious transactions, a duty to refuse to undertake suspicious transactions, more specific guidelines for the non-banking sector-such as real estate-and penalties for entities that fail to report suspicious transactions. The bill will extend the obligations of suspicious transaction reporting to lawyers, notaries, accountants, auditors, and offshore companies. In November 2003, the Monetary Authority of Macau issued a circular to banks, requiring that STRs be accompanied by a table specifying the transaction types and money laundering methods, in line with the collection categories identified by the Asia/Pacific Group on Money Laundering (APG).

In May 2002, the Macau Monetary Authority revised its anti-money laundering regulations for banks, to bring them into greater conformity with international practices. Guidance also was issued for banks, money changers, and remittance agents, addressing record keeping and suspicious transaction reporting for cash transactions over \$2,500. For such transactions, banks, insurance companies, and moneychangers must exert customer due diligence. The Monetary Authority of Macau, in coordination with the IMF, updated its bank inspection manuals to strengthen anti-money laundering provisions. The Monetary Authority inspects banks every two years, including their adherence to anti-money laundering regulations.

The United States has no law enforcement cooperation agreements with Macau, though cooperation between the United States and Macau routinely takes place. The Judiciary Police have been cooperating with law enforcement authorities in other jurisdictions through the Macau branch of Interpol, to suppress cross-border money laundering. In addition to Interpol, the Fraud Investigation Section of the Judiciary Police has established direct communication and information sharing with authorities in Hong Kong and mainland China.

The Monetary Authority of Macau also cooperates internationally with other financial authorities. It has signed memoranda of understanding with the People's Bank of China, China's Central Bank, the China Insurance Regulatory Commission, the China Banking Regulatory Commission, the Hong Kong Monetary Authority, the Hong Kong Securities and Futures Commission, the Insurance Authority of Hong Kong, and Portuguese bodies including the Bank of Portugal, the Banco de Cabo Verde and O Instituto de Seguros de Portugal.

Macau participates in a number of regional and international organizations. It is a member of the Asia/Pacific Group on Money Laundering (APG), the Offshore Group of Banking Supervisors, the International Association of Insurance Supervisors, the Offshore Group of Insurance Supervisors, the

Asian Association of Insurance Commissioners, and the International Association of Insurance Fraud Agencies.

In 2003, Macau hosted the annual meeting of the APG, which adopted the revised FATF Forty Recommendations and a strategic plan for anti-money laundering efforts in the region from 2003 to 2006. In September 2003, Macau became a party to the UN Convention against Transnational Organized Crime, as a result of China's ratification. Macau also became a party to the 1988 UN Drug Convention through China's ratification.

Macau has taken a number of steps in the past three years to raise industry awareness of money laundering. During a March 2004 IMF technical assistance mission, the IMF and Monetary Authority of Macau organized a seminar for financial sector representatives on the FATF Revised Forty Recommendations. The Macau Monetary Authority trains banks on anti-money laundering measures on a regular basis.

Macau should implement and enforce existing laws and regulations, and pass and implement its pending legislation. Macau should ensure that regulations, structures, and training are put in place to prevent money laundering in the gaming industry, including implementing, as quickly as possible, the regulations it has drafted on the prevention of money laundering in casinos. Macau should pass legislation to establish a financial intelligence unit as soon as possible.

The MSARG should take steps to implement the new FATF Special Recommendation Nine, adopted by the FATF in October, 2004, requiring countries to implement detection and declaration systems for cross-border bulk currency movement. Macau should increase public awareness of the money laundering problem, improve interagency coordination, and boost cooperation between the MSARG and the private sector in combating money laundering.

Macedonia

Macedonia is not a regional financial center. The country's economy is mainly cash-based, and citizens lack trust in the banking system following bank failures and a pyramid scheme in the early 1990s. Money laundering in Macedonia is mostly connected to financial crimes such as tax evasion, smuggling, financial and privatization fraud, bribery, and corruption. Most of the laundered proceeds come from domestic criminal activities. A small portion of money laundering activity may be connected to narcotics-trafficking. There is no evidence that narcotics-trafficking organizations or terrorist groups control money laundering. In addition, there is no evidence that weapons or human traffickers have been involved in money laundering activities using bank or non-bank financial institutions. Nor is there evidence of financial institutions or the Government of Macedonia (GOM) or any of its officials being engaged in currency transactions involving proceeds from narcotics-trafficking, and in particular involving U.S. currency or currency derived from illegal drug sales in the U.S.

Article 273 of Macedonia's criminal code, which came into force in 1996, criminalizes any form of money laundering. The legislation specifically identifies narcotics and arms trafficking as predicate offenses, and contains an additional provision that covers funds acquired from other punishable actions. A new Law on Money Laundering Prevention (LMLP) was enacted in July 2004, replacing the 2001 version, thus harmonizing Macedonia's money laundering regulations with EU standards and Financial Action Task Force (FATF) recommendations. The new law requires financial institutions to record and report all cash transactions in excess of 15,000 euros, as well as any suspicious transactions. Reporting entities are protected by law in their cooperation with law enforcement authorities. Institutions are also required to identify, report and keep track of clients performing those transactions, and to prepare programs to protect themselves against money laundering. Banks and other financial institutions are required to maintain records necessary to trace and/or reconstruct significant transactions for up to 5 years. The LMLP provides penalties for individuals and entities that do not comply with regulations, and the Banking Law includes provisions for "banker negligence" that make bank officials responsible if their institutions launder money. The country has no secrecy laws, and supervisory authorities have full access to financial institutions' records. The banking community cooperates with law enforcement authorities in tracing or reconstructing cases. The Customs Administration is required to register and report the cross-border transport of currency or monetary instruments in amounts that exceed 10,000 euros.

Non-bank financial institutions such as exchange offices and non-bank money transfer agents are poorly supervised and audited. Although intermediaries such as lawyers, accountants, brokers and notaries are obliged to submit reports to the Directorate for Money Laundering Prevention, to date none have done so. A Law on Money Transfer by entities other than banks was passed in December 2003, and defines the rules for licensing, operating and supervising money transfer agents.

Macedonia is in the process of implementing complex legislative reforms, including amendments to the Constitution that will allow for the use of specialized investigative methods. It is also changing the Law on Criminal Procedure, the Criminal Code, the Law on Misdemeanors and the Law on Enforcement of Sanctions. These reforms should strengthen the fight against organized crime, corruption, terrorism, trafficking in human beings, money laundering, and narcotics by increasing penalties, refining and tightening definitions, and defining authority.

Macedonia is not an offshore financial center. There are no offshore banks or other financial institutions in Macedonia. There is no separate regulation for offshore businesses, as current laws govern foreign and domestic businesses. There is no evidence that alternative remittance systems exist in Macedonia.

The Directorate for Money Laundering Prevention (DMLP) is part of the Ministry of Finance. The Directorate collects, processes, analyzes, and stores data received from financial institutions and other government agencies. It has no authority to undertake any further action, except submitting collected information to the police and the judiciary. From its establishment on March 1, 2002 until the end of 2004, the Directorate received 60,717 reports from various entities, mostly banks. Twelve of these were sent on to relevant authorities for detailed investigation, out of which five led to tax evasion cases and other criminal charges.

In June 2002, Parliament passed a Law establishing a Financial Police Unit. The unit, in the Ministry of Finance, investigates financial crimes, bank fraud, tax evasion, terrorism financing and money laundering cases reported by the DMLP. A Director was finally appointed in June 2004. Although not completely staffed, the unit has received training on money laundering and more advanced training is planned for the future. So far, there have been no arrests or prosecutions related to money laundering or terrorist financing.

Macedonia has yet to criminalize terrorist financing. The National Bank and Ministry of Finance circulate the lists of terrorist financing entities they receive. The authorities are allowed to identify named accounts, but require court orders before they can freeze and/or seize assets in those accounts. According to the LMLP, financial institutions could temporarily freeze assets of suspected money launderers and terrorist financiers until a court issues a freeze order. So far, the authorities have not identified, and therefore have not seized or frozen, assets related to terrorist financing. While Macedonia's two top banks have computer systems that allow them to easily identify both account holders and transactions with individuals named in the lists, the other 18 banks have no such systems and must search their customer lists manually.

Macedonia has concluded a number of Police Cooperation Agreements with almost all of the countries in the region (Albania, Bulgaria, Croatia, Romania, Slovenia, Austria, Turkey, Greece, Russian Federation, Ukraine, and Egypt) and has mutual legal assistance agreements with many countries. The exchange of police information is regularly provided through Interpol channels. Macedonia also provides law enforcement information in connection with requests from other countries with which it lacks a formal information exchange mechanism, including the United States. Macedonia has concluded bilateral agreements for exchanging information on money laundering with Bulgaria, Croatia, Slovenia, Ukraine, Romania, Serbia, Montenegro and Albania.

Macedonia is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and underwent a second evaluation for effectiveness in preventing money laundering in October 2002. At its June 2004 meeting in the UK, the Egmont group accepted Macedonia as a fully-fledged member, thus recognizing the latest efforts by the DMLP under its new Director. Macedonia is a party to the 1988 UN Drug Convention. In May 2004, the Macedonian Parliament ratified the UN International Convention for the Suppression of the

Financing of Terrorism, but has yet to ratify the UN Convention against Transnational Organized Crime.

The Government of Macedonia should work to pass its pending legislation and should continue its implementation of the new legislation, including the amendments to the Constitution that will allow for the use of specialized investigative methods. Macedonia also should provide the necessary resources and training to ensure full implementation of its laws, including the adequate supervision of non-bank financial institutions. Macedonia should criminalize terrorist financing.

Madagascar

Madagascar is not a regional financial center. Criminal activity in Madagascar reportedly includes smuggling of animal products such as tortoise shells and reptile skins for sale in international markets. These schemes have in the past been related to money laundering activities within the country.

In 1997, Madagascar criminalized money laundering related to narcotics-trafficking. In June and July 2004, the Senate and National Assembly enacted broader legislation to address money laundering, seizures, confiscation, and international cooperation in dealing with the proceeds of all types of crime. The banking regulatory framework and the internal policies of the banks provide for retention of significant documents, generally for at least five years. Current banking regulations and individual bank policies require financial institutions to know their customers and to document and retain proof of their efforts to carry out that function.

The 2004 legislation defines prohibited activities and covered actors. There are broad definitions of "money laundering", "proceeds of crime", and "assets." The provisions apply to physical persons and legal entities involved in operations concerning the movement of capital. They apply to banking and credit establishments, intermediate financial institutions, insurance companies, mutual savings institutions, stock brokerages, moneychangers, casinos, gaming establishments, and entities involved in real estate operations.

The first part of the 2004 law addresses prevention. It prohibits all cash payments over 10 million Ariary (\$5000). All international transfers over 6 million Ariary (\$3000) must be managed by a recognized credit or financial institution. Banks must ensure they know the identity of all clients and are obligated to investigate the source of any transactions exceeding 50 million Ariary (\$25,000). The law also requires financial institutions to establish internal programs against money laundering, including centralization of information, training, internal controls and designation of a responsible official at each branch or office.

The second part of the 2004 law addresses detection. The law authorizes the establishment of a financial intelligence service, which will serve as a clearinghouse for customer information and liaison with judicial authorities. This financial intelligence service was not yet operational by the end of 2004. Judicial authorities are authorized to use electronic, audio and video surveillance, monitor bank accounts, and access bank systems during the course of an investigation.

The law permits the freezing and seizure of assets that are the object of investigation, fines and imprisonment for money laundering and other infractions. The Government of Madagascar, through the Central Bank, currently distributes lists of individuals and organizations linked to terrorism finance throughout the banking system.

Sentences for individuals convicted of money laundering include imprisonment and fines ranging from 100,000 Ariary up to five times the laundered sum. The government can confiscate the individual's assets and properties—as well as those of a spouse or children. Proceeds from the sale of these items can be used to fund efforts to combat organized crime and drug trafficking. No arrests or prosecutions for money laundering or terrorist financing were presented during calendar year 2004.

Madagascar is a party to the 1988 United Nations Drug Convention, the United Nations Convention against Transnational Organized Crime, and the United Nations International Convention for the Suppression of the Financing of Terrorism.

The Government of Madagascar should join the Eastern and Southern African Anti-Money Laundering Group and implement the financial intelligence service authorized in the 2004 money laundering legislation.

Malawi

Malawi is not a regional financial center. The Reserve Bank of Malawi (RBM), Malawi's Central Bank, supervises the country's six commercial banks. Some money laundering is tied to smuggling and converting remittance savings systems abroad. Under Malawi's existing exchange control regime, foreign exchange remittances not backed by a "genuine transaction" are illegal; traders, therefore, launder funds in their efforts to remit savings abroad.

Financial institutions are required to record and report the identity of customers making large transactions, and banks must maintain those records for seven years. Banks are allowed, but not required, to submit suspicious transaction reports to the RBM. The RBM inspects banks' records every quarter and has access to those records on an "as needed" basis for specific investigations.

Malawi's current laws do not specifically criminalize money laundering, but can be used to prosecute money laundering cases. The Government of Malawi (GOM) drafted a "Money Laundering and Proceeds of Serious Crime" bill, which was considered in Parliament's Commerce and Industry Committee in 2003. The committee requested revisions in the proposed legislation before it is considered in the full Parliament. The draft law would criminalize money laundering related to all serious crimes. The draft law would also establish a legal framework for identifying, freezing, and seizing assets related to money laundering. The bill stipulates that the seized assets become the property of the GOM and should be used in the fight against money laundering. Reportedly, there has been no further action by the Parliament regarding the draft legislation in 2004.

While the GOM has not specifically criminalized terrorist financing, the RBM has the legal authority to identify and freeze assets suspected of involvement in terrorist financing. The RBM has circulated to the financial community all names included on the UN 1267 Sanctions Committee consolidated list and all other names designated under E.O. 13224 by the United States Government. The RBM continues to monitor the financial system for money laundering activity.

Malawi has signed the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) Memorandum of Understanding. Malawi is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

The Government of Malawi should enact comprehensive anti-money laundering legislation and counterterrorist finance legislation in order to develop viable regimes to thwart both money laundering and terrorist financing regimes as it has agreed to do as a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG). Malawi should become a party to the UN Convention against Transnational Organized Crime.

Malaysia

Malaysia is not a regional center for money laundering. However, its formal and informal financial sectors are vulnerable to abuse by narcotic traffickers, financiers of terrorism and criminal elements. Malaysia's relatively lax customs inspection at ports of entry and free trade zones, its uneven enforcement of intellectual property rights, and its offshore financial services center serve to increase its vulnerability.

Since 2000, Malaysia has made significant progress in constructing a comprehensive anti-money laundering regime. Malaysia's National Coordination Committee to Counter Money Laundering (NCC), comprised of members from thirteen government agencies, oversaw the drafting of Malaysia's Anti-Money Laundering Act 2001 (AMLA) and coordinates government-wide anti-money laundering efforts.

The AMLA, enacted in January 2002, criminalized money laundering and lifted bank secrecy provisions for criminal investigations involving more than 150 predicate offenses. The law also created a Financial Intelligence Unit (FIU) located in the Central Bank, Bank Negara Malaysia (BNM). The FIU is tasked with receiving and analyzing information, and sharing financial intelligence with the appropriate enforcement agencies for further investigations. The Malaysian FIU works with more than twelve other agencies to identify and investigate suspicious transactions.

The Government of Malaysia (GOM) has a well-developed regulatory framework, including licensing and background checks, to oversee onshore financial institutions. BNM stringent guidelines require customer identification and verification, financial record keeping, and suspicious activity reporting. These guidelines are intended to require banking institutions to determine the true identities of customers opening accounts and to develop a "transaction profile" of each customer with the intent of identifying unusual or suspicious transactions. A comprehensive supervisory framework has been implemented to audit financial institutions' compliance with AMLA. Currently, there are 300 examiners who are responsible for money laundering inspections for both onshore and offshore banks.

Malaysia has strict "know your customer" rules under the AMLA. Every transaction, regardless of its size, is recorded. Reporting institutions must maintain records for at least six years and report any suspicious transactions to the Central Bank's Financial Intelligence Unit (FIU). Regardless of the transaction size, if the reporting institution deems a transaction suspicious, it must report that transaction to the FIU. Officials indicate that they receive regular reports from institutions, but cannot divulge the volume or frequency of such reports. Reporting individuals and their institutions are protected by statute with respect to their cooperation with law enforcement. While Malaysia's bank secrecy laws prevent general access to financial information, those secrecy provisions are waived in the case of money laundering investigation under the AMLA.

Malaysia has adopted "due diligence" or "banker negligence" laws that make individual bankers responsible if their institutions launder money. Both reporting institutions and individuals are required to adopt internal compliance programs to guard against any offense under the AMLA. Under the AMLA, any person or group who engages in, attempts to engage in or abets the commission of, money laundering would be subject to criminal sanction. Reporting institutions are required to file suspicious transaction reports under the AMLA. All reporting institutions are subject to the same review by the FIU and other law enforcement agencies. Reporting institutions include: commercial banks, money changers, discount houses, insurers, insurance brokers, Islamic insurance and reinsurance (takaful and retakaful) operators, offshore banks, offshore insurers, offshore trusts, the Pilgrim's Fund (to pay for Hajj trips to Mecca), Malaysia's postal service, development banks such as Malaysia's National Savings Bank (Bank Simpanan Nasional), The People's Cooperation Bank (Bank Kerjasama Rakyat Malaysia Berhad), and licensed casinos.

The detailed regulations for examining money laundering are still in development for all segments of the financial industry. By using a consultative approach, the Central Bank's FIU continues to expand the scope of institutions which must report suspicious transactions. This approach encouraged Malaysia's professional societies for lawyers and accountants to add suspicious transaction reporting requirements to their bylaws. Likewise, in consultation with the Security Commission, stockbrokers and brokerage houses are now required to submit suspicious transaction reports. The Government's consultative approach has minimized potential political fallout from the statute's expansion.

Malaysia's fledgling Islamic finance sector, accounting for approximately 10 percent of total deposits, is subject to the same strict supervision to combat financial crime as the commercial banks. A combination of legacy exchange controls imposed after the 1997-98 Asian financial crisis and robust regulation and supervision by the Central Bank makes the Islamic financial sector as unattractive to financial criminals as is the conventional financial sector.

In 1998 Malaysia imposed foreign exchange controls that restrict the flow of the local currency, the ringgit, from Malaysia. Onshore banks must record cross-border transfers over RM5,000 (approximately \$1,300). Since April 2003, an individual form is completed for each transfer above RM50,000 (approximately \$13,170). Recording is done in a bulk register for transactions between RM5,001 and RM50,000. Banks are obligated to record the amount and purpose of these transactions.

Malaysia's offshore banking center in the island of Labuan, located off the eastern coast of Malaysia, is vulnerable to money laundering and the financing of terrorism. The Labuan Offshore Financial Services Authority (LOFSA) is under the authority of the Central Bank, Bank Negara. The offshore sector has different regulations for the establishment and operation of offshore businesses, than for onshore businesses. However, the same anti-money laundering laws as those governing domestic financial service providers govern the offshore sector. Offshore banks, insurance companies, and trust companies are required to file suspicious transaction reports under the country's anti-money laundering law.

LOFSA licenses offshore banks, banking companies, trusts and insurance companies, and performs stringent background checks before granting an offshore license. The financial institutions operating in Labuan are generally among the largest international banks and insurers. Nominee (anonymous) directors are not permitted for offshore banks, trusts or insurance companies. Labuan has 4,065 registered offshore companies, money banking companies, trusts, and insurance companies. Offshore companies must be established through a trust company. Trust companies are required by law to establish true beneficial owners and submit suspicious transaction reports as necessary. Bearer instruments likewise are prohibited in Labuan, but there is no requirement to reveal the true identity of the beneficial owner of international corporations. LOFSA officials may require any organization operating in Labuan to disclose information on its beneficial owner or owners.

As of December 2004, Labuan has 53 offshore banks in operation, along with 101 insurance and insurance-related companies, 59 leasing operations, 15 fund management groups, 30 trust companies, three money banking companies, and 2,348 offshore companies (both trading and non-trading). Many of the companies established in Labuan are Japanese firms established primarily to service Japanese companies in Malaysia. Malaysia bans offshore casinos and Internet gaming sites.

The Free Zone Act of 1990 is the enabling legislation for free trade zones in Malaysia. The zones are divided into Free Industrial Zones (FIZ), where manufacturing and assembly takes place, and Free Commercial Zones (FCZ), generally for warehousing commercial stock. The Minister of Finance may designate any suitable area as an FIZ or FCZ. Currently there are 13 FIZs and 14 FCZs in Malaysia. The Minister of Finance may appoint any federal, state or local government agency or entity as an authority to administer, maintain and operate any free trade zone. Legal treatment for such zones is also different. The time needed to obtain such licenses from the administrative authority for the given free trade zone depends on the type of approval. Clearance time ranges from 2-8 weeks. There is no information available suggesting that Malaysia's free industrial and free commercial zones are being used for trade-based money laundering schemes or by the financiers of terrorism. However, the GOM considers these zones as areas outside the country and receive with more lenient tax and customs treatment relative to the rest of the country. As such, the free trade zones are vulnerable to money laundering.

In April 2002, the GOM passed the Mutual Assistance in Criminal Matters Bill and, in 2004, Malaysia made its first arrest for money laundering. The GOM is currently prosecuting this case as well as investigating several others. Malaysia cooperates with regional, multilateral, and international partners to combat financial crimes and permits foreign countries to check the operations of their banks' branches. The FIU has signed Memoranda of Understanding (MOUs) with the FIUs of Australia, Indonesia, and the Philippines. MOUs with the United States, the United Kingdom, Japan, South Korea, the Netherlands, Finland, Albania, Thailand, and Argentina are pending.

Parliament passed amendments to the Anti-Money Laundering Act, the Subordinate Courts Act, and the Courts of Judicature act in November 2003. The Criminal Procedure code is the last major piece of domestic legislation that needs an amendment before the can be incorporated into domestic law. The amendments to the AMLA, once enacted, will make the financing of terrorism one of the 168 predicate offenses for which money laundering can be charged as a crime but additional review mandated by Parliament has delayed the amendment's entry into force. A Select Committee is currently reviewing changes to The Criminal Procedure Code—the last major piece of domestic legislation that needs amending before being enacted in domestic law. When implemented, the 2003 amendments will increase penalties for terrorist acts, allow for the forfeiture of terrorist-related assets, allow for the prosecution of individuals who provide material support for terrorists, expand the use of wiretaps and other surveillance of terrorist suspects, and permit video testimony in terrorist cases. GOM officials

expect the committee to conclude its review by July 2005 and Royal assent to follow shortly thereafter. Enactment of the amendment will enable the GOM to accede to the 1999 UN Convention for the Suppression of the Financing of Terrorism. Additionally, the Cabinet has approved, as policy, the ratification of all remaining counterterrorist conventions. Malaysia is a party to the 1988 UN Drug Convention.

Despite of the absence of legislation criminalizing terrorist financing, the GOM has cooperated closely with U.S. law enforcement in investigating terrorist-related cases since the signing of a joint declaration to combat international terrorism with the United States in May 2002. The GOM currently has the authority to identify, freeze terrorist or terrorist-related assets and has issued orders to all licensed financial institutions, both onshore and offshore, to freeze the assets of individuals and entities listed by the UN Security Council Resolution (UNSCR) 1267. As evidence of its willingness to cooperate internationally in the global effort to thwart terrorism, the Ministry of Foreign Affairs, in conjunction with Malaysia's anti-money laundering unit within the Central Bank, opened the Southeast Asian Region Centre for Counter-Terrorism (SEARCCT) in August 2003.

The GOM has rules regulating charities and other non-profit entities. The Registrar of Societies is the principal government official who supervises and controls charitable organizations, with input from the Inland Revenue Board and occasionally the Companies Commission. The Registrar mandates that every registered society of a charitable nature submits its annual returns, which include financial statements. Should the Registrar find activities he deems suspicious, he will inform the FIU of such activities. Negotiations are currently underway to expand the scope of AMLA reporting institutions to include charitable organization governed by the Registrar of Societies. Malaysia's tax law allows contributions to charitable organizations (Zakat, as required by Islam) to be deducted from one's total tax liability, encouraging the reporting of such contributions. Such contributions can be taken as payroll deductions, another tool to prevent the abuse of charitable giving.

Malaysia has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision" and is a member of the Offshore Group of Banking Supervisors and the Asia/Pacific Group on Money Laundering. Malaysia's FIU gained membership to the Egmont Group of Financial Intelligence Units in July 2003.

The Government of Malaysia continues to make a broad, sustained effort to combat money laundering and terrorist financing flows within its borders. For all entities such as trust companies and International Business Companies (IBCs), Malaysia should insist on "fit and proper tests" for all management, and identification of all beneficial owners. Malaysia should also insist on the registration of trusts and of the beneficial owners of the 4,000 International Business Companies, and stringent auditing and examination requirements in its offshore financial center, to prevent the misuse of the offshore financial center by organized crime and terrorist organizations and their supporters. Customs regulations and inspections should be strengthened, particularly in the free trade zones. Malaysia is a signatory to the UN Convention against Transnational Organized Crime, which came into force in September 2003. Malaysia should ratify that Convention. The Malaysian Parliament should enact terrorist financing legislation in 2005 and the GOM should accede to the UN International Convention for the Suppression of the Financing of Terrorism and to all other terrorist-related UN Conventions.

The Maldives

The Maldives is not an important regional financial center. The financial sector of the Maldives is very small, with five commercial banks (one international bank, three branches of public banks from neighboring countries and the state owned bank), two insurance companies, and a government provident fund. There are no offshore banks.

The Maldives Monetary Authority (MMA) is the regulatory agency for the financial sector. The MMA has authority to supervise the banking system through the Maldives Monetary Authority Act. These laws and regulations provide the MMA with access to records of financial institutions and allow it to take actions against suspected criminal activities. Banks are required to report any unusual movement of funds through the banking system on a daily basis. Separate laws address the narcotics trade, terrorism, and corruption: Law No. 17/77 on Narcotic Drugs and Psychotropic Substances prohibits consumption and trafficking of illegal narcotics. The law also prohibits laundering of proceeds from the

illicit narcotics trade. Law No 2/2000 on Prevention and Prohibition of Corruption prohibits corrupt activities by both public and private sector officials. It also provides for the forfeiture of proceeds and empowers judicial authorities to freeze accounts pending a court decision.

The Government of the Maldives is in the process of drafting anti-money laundering legislation, with IMF assistance. The government has recently set up a Financial Intelligence Unit (FIU) within the MMA. Currently, there are no laws or regulations governing the FIU. Regulations to cover the FIU are expected to be included in the new money laundering legislation.

Law No. 10/90 on Prevention of Terrorism in the Maldives deals with some aspects of money laundering and terrorist financing. Provision of funds or any form of assistance towards the commissioning or planning of any such terrorist activity is unlawful. The MMA has issued "know your customer" directives and other instructions to banks, including freezing order requests, which are binding on banks and other financial institutions. The MMA monitors unusual financial transactions through banks, financial institutions, and money transfer companies through its bank supervision activities. The four foreign banks operating in the country also follow directives issued with regard to terrorist financing by their parent organizations. To date, there have been no known cases of terrorist financing activities through banks in the Maldives.

The Maldives is a party to the 1988 UN Drug Convention and to the 1999 UN International Convention for the Suppression of the Financing of Terrorism. The Maldives has not signed the UN Convention against Transnational Organized Crime.

The Government of the Maldives should enact comprehensive anti-money laundering and counterterrorist financing legislation that conforms to international standards. The legislation should include all regulations necessary to successfully establish the new Financial Intelligence Unit (FIU). The Maldives should also sign and ratify the UN Convention against Transnational Organized Crime.

Mali

Mali's per capita gross domestic product (GDP) of \$250 (2002) places it among the world's 10 poorest nations. Mali is not considered an important regional financial center nor is it experiencing an increase in financial crimes. Mali has no banks with offshore facilities. Drug trafficking is also not a significant problem in Mali. There is no evidence of Mali's financial institutions engaging in currency transactions involving narcotics-trafficking. Contraband cigarette smuggling originating in West Africa and transiting Mali is significant and includes arms smuggling as well. The smuggling operators are controlled by the Salafist Group for Preaching and Combat (GSPC)—a terrorist organization. Mali has an internal market for smuggled cigarettes and textiles, but these activities are primarily a way to avoid Malian customs duties and are not related to the narcotics trade. Other than the smuggling of contraband in Mali's north, no significant organized crime is known to exist in Mali.

Drug smuggling, smuggling, and money laundering are all criminal offenses in Mali. Mali has introduced a new comprehensive banking law with international and European standards that will protect bankers and others with respect to their cooperation with law enforcement entities. The new banking law will, when enacted, also regulate the transfer of currency. The Malian National Assembly has not, as yet, ratified the new comprehensive law. Further, it is not among the list of laws to be discussed during the current session.

The National Assembly approved, during its Fall 2004 session, a new law on the growing role of banks in the economy and the spread of the use of bank notes among the population. The law's intention is not only to reduce the amount of currency used in financial transactions, urging the use of checks in its place, but also to encourage the use of the banking system. Bank secrecy is very limited in Mali. Mali routinely provides law enforcement authorities with client and ownership information in investigative cases. At present, Malian customs checks passengers at airports for certificates of exchange to ascertain if money exchange within the country was through a legal source.

Mali is part of the West African Economic and Monetary Union (WAEMU). All WAEMU countries have a monetary committee that reviews, records and reports significant currency transactions. In addition,

all WAEMU country banks are required to maintain records necessary to reconstruct significant transactions for ten years and are required to report suspicious transactions on a regular basis.

Money laundering controls are also applied to non-banking financial institutions, such as exchange houses, stock brokerages, casinos, insurance companies, etc., as well as intermediaries such as lawyers, accountants, and broker/dealers. There have been no ramifications, to date, related to any changes in Mali's policies and laws related to money laundering and terrorist financing nor have banking or political groups objected. There have been no arrests or prosecutions for money laundering or terrorist financing in Mali to date.

Mali is not considered an offshore financial center. No offshore banks, international business companies, or other forms of exempt or shell companies or trusts exist in Mali. There are no free trade zones in Mali.

Smuggled property involved in international drug trade, money laundering, or terrorist financing in Mali can be seized and sold with the proceeds going to the government. Assets are frozen until the investigation is complete. The Malian public and political response to government efforts to seize and/or forfeit assets has been very supportive. The Malian banking community has been very cooperative with enforcement efforts to trace funds and seize bank accounts. Under a new Banking law, the Ministry of Economy and Finance would receive the proceeds from asset seizures and forfeitures. Mali has not enacted laws for the sharing of seized assets with other governments.

The Government of Mali strictly enforces existing drug-related asset seizure and forfeiture laws. The Ministry of Finance and the Ministry of Security are responsible for tracing and seizing assets. The GOM is severely under-manned, under-trained, and under-financed to trace and seize assets adequately. Mali's law enforcement organizations operate independently of each other with little to no coordination. The police narcotics department, Gendarme, Customs and border police seized drugs during 2003 and 2004. The GOM did not keep records of previous years' seizures; however, GOM officials feel that the problem continues to be small. When asked, Mali has been cooperative and supportive of efforts by the USG and other countries to trace and seize assets; however, there is little coordination relating to drug interdiction between Mali and its neighbors.

Mali is a key regional partner in the global war on terrorism. Terrorism and terrorist financing are considered serious crimes in Mali. The GOM has the authority to identify, freeze, and seize terrorist finance related assets. The Ministry of Finance has circulated the names of suspected terrorists and terrorist organizations to Malian financial institutions. To date, no assets have been identified in Mali. While the hawala system exists in Mali, it is primarily used for salary transfers of Malians working abroad. A Committee of Malians finances salaries to Malian families; in exchange, the foreign salaries earned are used to buy French commercial goods. Not all Malians use the banking system because some work abroad without legal work permits and are forced to repatriate funds through non-traceable means. The financial sector is making efforts to explain the safety of banks to thwart the misuse of charitable and/or non-profit entities that might be used as conduits for the financing of terrorism.

Mali has entered into bilateral agreements between BCEAO (Central Bank of West African States) countries for the exchange of information on money laundering. The countries include: Cote d'Ivoire, Senegal, Togo, Burkina Faso, Guinea Bissau, Niger, and Benin. The GOM has no specific agreement with U.S. authorities on a mechanism for exchanging records in connection with investigations and proceedings relating to narcotics, terrorism, terrorist financing and other serious crime investigations; however, international agreements pledge Mali to share information in such cases. Mali has not entered into any relevant bilateral treaties, agreements, or other mechanisms for information exchange with the United States.

Mali is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. In November 2000, Mali was one of 14 West African countries to attend a meeting to establish the Intergovernmental Action Group against Money Laundering (GIABA).

The Government of Mali should enact and fully implement comprehensive anti-money laundering legislation that comports with international standards. Additionally, it should ensure appropriate law enforcement personnel are trained and able to perform their duties.

Malta

Malta joined the European Union (EU) on May 1, 2004. As part of its preparation for this event, Malta strengthened its regulatory regime and introduced measures to attract European investors and to shed its image as an offshore tax haven. Malta has made significant headway, introducing EU-compliant legislation for the prevention of money laundering and strong financial services legislation. Malta does not appear to have a serious money laundering problem.

Since 1997, Malta has been closing the loopholes on all offshore financial activities. All licenses for offshore registered businesses expired on September 30, 2004, completing Malta's transition from an economy with over 400 international business corporations in 2001 to a country where offshore banking and business is no longer legal. Companies and trusts are now fairly well regulated, and international entities are subject to 35 percent tax. Bearer shares or anonymous accounts are no longer permitted in Malta.

The Government of Malta (GOM) criminalized money laundering in 1994. Maltese law imposes a maximum punishment of approximately \$2.5 million and/or 14 years in prison for those convicted of money laundering crimes. Also in 1994, the GOM issued the Regulations for the Prevention of Money Laundering, applicable to financial and credit institutions, life insurance companies, and investment and stock brokerage firms. These regulations impose requirements for customer identification, record keeping, the reporting of suspicious transactions, and the training of employees in anti-money laundering topics. In August 2003, a new set of regulations combined the 1994 money laundering law and the Second EU Directive on the Prevention of Money Laundering, and became the national law, which expands anti-money laundering requirements to designated non-bank financial businesses and professions.

The Maltese Financial Services Authority (MFSA) is the regulatory agency responsible for licensing new banks and financial institutions; additionally the MFSA has been responsible for monitoring financial transactions going through Malta since the supervisory function of the Central Bank of Malta was passed to the MFSA in 2002. Recently the MFSA widened its regulatory scope to encompass banking, insurance, investment services, company compliance, and the stock exchange. The MFSA has a rigorous process of analyzing companies prior to granting a license. This entails detailed analyses of all the applications it receives, including information about the directors and other persons involved in the management of the company.

In December 2001, Malta's parliament established the Financial Intelligence Analysis Unit (FIAU) through an amendment to the Prevention of Money Laundering Act, 1994, to serve as Malta's Financial Intelligence Unit (FIU). The unit became fully functional in October 2002. The FIAU is independent and has a board that consists of members nominated by the Central Bank of Malta, the MFSA, the Police, and the Attorney General. Board members are not subject to the direction or control of their parent agency or any other authority.

The FIAU co-ordinates the fight against money laundering, collects information from financial institutions, and liaises with parallel international institutions as well as the MFSA and the GOM Police. The GOM requires banks, bureaux de change, stockbrokers, insurance companies, money remittance/transfer services, and other designated non-bank financial businesses and professions to file suspicious transaction reports (STRs) with the FIAU, which investigates them. The FIAU also conducts organized training sessions for Maltese financial practitioners to make them aware of their responsibilities.

The FIAU is leading an initiative to consolidate all guidance notes for all of the covered financial services and other businesses. In 2003, the FIAU, together with the Banking Unit at the MFSA, updated the Guidance Notes for Credit and Financial Institutions issued by the Central Bank of Malta in 1996.

STRs are not required to be filed for subjects suspected of negligence; only intentional and willful blindness offenses are penalized in Malta. The FIAU received 76 STRs in 2003 and 46 STRs in 2004. Stronger enforcement should continue as the FIAU continues analyzing STRs for referral for police investigation. Malta has also moved to bolster the prosecutorial opportunities for financial crime. The

GOM has recently designated one of the country's five prosecutors to deal solely with money laundering cases. Bank secrecy laws are completely lifted by law in cases of money laundering (or other criminal) investigations.

In January 2002, the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) conducted a second round mutual evaluation of the overall effectiveness of the Maltese anti-money laundering system and practices, including compliance with the FATF Special Recommendations on Terrorist Financing. The review found that Malta was in partial compliance with Special Recommendation No. 1 (ratification and implementation of UN instruments), because it had signed and ratified the pertinent UN Conventions, but had not yet fully implemented UNSCRs 1269, 1373, and 1390.

Malta has criminalized terrorist financing. In 2002, the criminal code was amended in such a way that terrorist financing would meet the standard for categorization as a "serious crime" under Malta's Prevention of Money Laundering Act. To date, the Act itself does not specifically mention or define terrorist financing.

The MFSA circulates to its financial institutions the names of individuals and entities included on the UNSCR 1267 Sanctions Committee's consolidated list. To ensure compliance, the list is posted on the MFSA website and the MFSA contacts every financial institution directly to confirm whether or not the institution has done business with any person or entity appearing on the consolidated list. To date, no assets have been identified, frozen, and/or seized as a result of this process.

Alternative remittance systems such as hawala, black market exchanges, and trade-based money laundering reportedly are not a problem in Malta. Such activities are against the law in Malta, and if discovered, those participating would be prosecuted. Anyone wishing to raise money for charitable reasons must receive a government license.

Malta is a founding member of the MONEYVAL and chaired the committee until December 2003. The FIAU became a member of the Egmont Group in July 2003. Malta is no longer a member of the Offshore Group of Banking Supervisors, but has joined the International Organization of Securities Commissions (IOSCO). Malta 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. Malta has ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and the Council of Europe European Convention on the Suppression of Terrorism, and has amended its criminal code to be in alignment with these conventions.

The Government of Malta should continue to enhance its anti-money laundering regime; in particular, Malta should adopt reporting requirements for cross-border currency transportation, including the reporting of international wire transfer activity, and should enact a safe harbor provision to protect those who report suspicious activity in accordance with GOM requirements.

Marshall Islands

The Republic of the Marshall Islands (RMI), a group of atolls located in the North Pacific Ocean, is a sovereign state in free association with the United States. The population of RMI is approximately 60,000. The financial system in RMI has total banking system assets of \$90 million and total deposits of \$76 million, with domestic deposits exceeding 50 percent of the gross domestic product. The RMI financial sector consists of two commercial banks, one of which is insured by the Federal Deposit Insurance Corporation (FDIC), and a government-owned development bank whose primary function is to perform development lending in government-prioritized sectors; there are also several low-volume insurance agencies that primarily sell policies on behalf of foreign insurance companies. In realization of the country's vulnerability to systemic shock in the financial sector, the government introduced a reform program geared toward enhancing transparency, accountability, and good governance. Among other initiatives, the reform program called for the establishment of the requisite infrastructure for detecting, preventing, and combating money laundering and terrorist financing.

The Marshall Islands has not seen an increase in financial crime in recent years. There have not been any prosecutions for money laundering. However, an evolving trend that poses a challenge to RMI's anti-money laundering/counterterrorist financing effort is the significant outflow of cash, generally attributed to expatriate businesses sending proceeds out of the country. There is currently no requirement to report cross-border currency transfers. The government is proposing an amendment to the Banking Act, that would address the problem.

Money laundering has been criminalized and customer identification and suspicious transaction reporting mandated. The Marshall Islands also issued guidance to its financial institutions for the reporting of suspicious transactions. In addition, the RMI drafted anti-money laundering regulations. The substantial and comprehensive effort to align the Marshall Islands' anti-money laundering regime with international standards, including the adoption of new laws, a new regulatory scheme, and the establishment of a Financial Intelligence Unit (FIU), resulted in its removal from the Financial Action Task Force's (FATF's) Non-Cooperating Countries and Territories list in 2002.

In November 2000, the Government of the Marshall Islands (GRMI) approved the establishment of a financial intelligence unit that may exchange information with international law enforcement and regulatory agencies. The Domestic Financial Intelligence Unit (DFIU) is located within the Banking Commission. The DFIU has the power to receive, analyze, and disseminate financial intelligence. In 2003, its processes were streamlined and automated to the fullest extent possible, given the limited resources available to the DFIU.

In May 2002, the GRMI passed and enacted its Anti-Money Laundering Regulations, 2002. The 2002 regulations provide the standards for reporting and compliance within the financial sector. Components of this legislation include reporting of beneficial ownership, internal training requirements regarding the detection and prevention of money laundering by financial institutions, record keeping, and suspicious and currency transaction reporting. Additionally, the Banking Commission and the Attorney General's office worked with the U. S. Government to develop a set of examination policies and an examination procedures manual. Both sets of documents are being used by examiners from the Banking Commission as guides in the on-site reviews of banks' and financial institutions' compliance with the anti-money laundering regulations. Since the establishment of the statutory and regulatory framework, the Banking Commission has conducted on-site examinations of financial institutions and cash dealers. Money laundering controls extend to all financial institutions, but do not cover professionals, i.e., lawyers and accountants. However, individuals can be held liable for money laundering violations by their institutions.

Under the Banking Amendment, the Proceeds of Crime Act, and the Count-Terrorism Act, the RMI can freeze, seize, and upon conviction transfer to the general fund, the proceeds of any crime that results in a one-year or greater sentence. Provisions allow for a broad range of forfeiture: any real or personal property owned by the person, any property used in the crime, and any proceeds of the crime. The Mutual Assistance Act allows the transfer to a requesting government of proceeds of such a crime committed in a foreign country. The Counter-Terrorism Act provides for the closing of any businesses involved in exporting or importing terrorist funds or supplies. These laws allow for both civil and criminal forfeiture. Although the laws are designed to meet the GRMI's international obligations, their effectiveness has not been tested, as there has been no terrorist activity in the RMI and therefore no seizures.

Depending on the nature of the offense, the Attorney General or the Banking Commission would be responsible for enforcement and for seizures of assets. Police powers are adequate, but resources are limited. However, the GRMI retains a close relationship to U.S. institutions and could call on them for assistance in cases of concern to the United States. Assets can be frozen "without undue delay."

Since the passage of its anti-money laundering law, and a suite of counterterrorism laws, as well as the subsequent promulgation of implementing regulations, the GRMI has undertaken a number of initiatives to further strengthen its anti-money laundering/counterterrorist financing (AML/CFT) regime. The government and local institutions have received positive reports from FATF.

However, a very significant problem has resulted from efforts to comply with AML/CFT requirements. This issue is causing a system-wide disturbance in banking and more specifically in transaction

settlement and clearance. The Bank of the Marshall Islands (BOMI), in an effort to assure full compliance, commissioned an internal audit of its procedures and controls in 2003. The results of that audit identified several weaknesses which BOMI has taken steps to correct. However, the existence of the audit, and fears of sanctions under the Bank Secrecy Act and the USA PATRIOT Act, have led Citizens Security Bank of Guam to discontinue its "payable through" relationship with BOMI, effective February 15th, 2004. Suspension of "payable through" will mean BOMI checks cannot be used outside the country. This situation has the potential to disrupt that status quo in the business community. It will also mean that the second largest population center, Ebeye, will have no banking services available for international transactions, as there is no Bank of Guam branch on Ebeye.

The RMI offshore financial sector is vulnerable to money laundering. Nonresident corporations (NRCs), the equivalent of international business companies, can be formed. Currently, there are 5,500 registered NRCs, half of which are companies formed for registering ships. NRCs are allowed to offer bearer shares. Corporate officers, directors, and shareholders may be of any nationality and live anywhere. NRCs are not required to disclose the names of officers, directors, and shareholders or beneficial owners, and corporate entities may be listed as officers and shareholders. The corporate registry program, however, does not allow the registering of offshore banks, offshore insurance firms, and other companies which are financial in nature.

Although NRCs must maintain registered offices in the Marshall Islands, corporations can transfer domicile into and out of the Marshall Islands with relative ease. Marketers of offshore services via the Internet promote the Marshall Islands as a favored jurisdiction for establishing NRCs. In addition to NRCs, the Marshall Islands offer nonresident trusts, partnerships, unincorporated associations, and domestic and foreign limited liability companies. Offshore banks and insurance companies are not permitted in the Marshall Islands.

Having established the requisite supervisory processes to ensure compliance with legislative mandates for detection and suppression of money laundering and terrorist financing, the GRMI's main emphasis in 2003 was on fine-tuning these processes. After undertaking nine on-site examinations of financial institutions, following procedures developed in cooperation with the FDIC, the Banking Commission has now gained a better understanding of the risk profile of these institutions with respect to their exposure to money laundering and terrorist financing. This has proven especially useful in amalgamating some supervisory processes with the routine FIU processes, thereby maximizing benefit for the limited resources available to the GRMI. The Banking Commission had planned that some of the supervisory processes would be incorporated into the required annual audits of banks, but this initiative was not completed in 2003; it was to be continued in 2004. In 2003, the Banking Commission recruited an Assistant Commissioner who will spearhead this task along with other examination tasks relating to anti-money laundering compliance and prudential banking practices.

The GRMI has enacted a Proceeds of Crime Act, Counter-Terrorism Act, and Foreign Evidence Act. Although the GRMI is not a signatory to the UN Vienna Convention on Drug Trafficking, RMI has acceded to all 12 major multilateral conventions and protocols related to states' responsibilities for combating terrorism under the International Convention for the Suppression of the Financing of Terrorism.

The Marshall Islands is a member of the Asia/Pacific Group on Money Laundering. The DFIU became a member of the Egmont Group in June 2002. RMI is also a founding member of the recently established Pacific Islands Financial Supervisors, a group of regulators from the Pacific Islands Forum countries that will be representing the region in the Basel group.

The Government of the Republic of the Marshall Islands (GRMI) continues to strengthen its key defenses against money laundering and terrorist financing, and has commenced work aimed at aligning its anti-money laundering system with the revised 40 recommendations of the Financial Action Task Force on Money Laundering. These tasks are highlighted in the draft Fourth Anti-Money Laundering Implementation Plan, covering the period from 2004 onward. The Republic of the Marshall Islands should accede to the 1988 UN Drug Convention. Additionally, the Marshall Islands should require the identification of the beneficial owners of Non-resident Corporations.

Mauritania

Mauritania is not a regional financial center. Its economic system suffers from a combination of weak Central Bank oversight, lax financial auditing standards, porous borders, and corruption in government and the private sector. Mauritania is a transit country for a variety of smuggled goods, including cigarettes, diverted food aid, small arms, clandestine immigrants. Government officials acknowledge that money laundering occurs in Mauritania, but most involves profits from graft and small-scale illicit activity. Terrorism financing and narcotics proceeds are believed to constitute a small portion of the sums laundered in Mauritania.

Money laundering occurs on a small scale within local banks. Money laundering is a criminal offense in Mauritania. The main law governing money laundering, enacted in 1992, focuses specifically on laundering from narcotics-trafficking. The Government of Mauritania (GOM) is drafting a new body of laws that, when enacted, will strengthen Government control over money laundering related to terrorist groups and activities. Banks are currently required to record and report to the Central Bank the identity of customers engaging in large-scale financial transactions. The GOM did not arrest or prosecute anyone for money laundering or terrorist financing activities in 2004.

Mauritania is a party to the 1988 UN Drug Convention, acceded to the International Convention for the Suppression of the Financing of Terrorism, and has also ratified the Organization of African Unity Convention on the Prevention and Combating of Terrorism of July 1999.

Mauritania is not an offshore financial center; nor are there free trade zones in Mauritania, although the GOM does grant tax relief to certain small-scale export sectors of the economy.

The Government has demonstrated a willingness to cooperate with the United States on combating terrorist financing and related issues, but local efforts are hampered by a serious lack of resources, knowledge, and expertise in this area. Law enforcement and judicial procedures and systems for identifying and freezing assets related to illegal activity are, at best, still in their initial phases. Although no significant legal loopholes exist to allow traffickers or terrorist financiers to shield assets, such loopholes are not really necessary given the very weak enforcement of current money laundering laws.

The GOM recently created an economic-crimes investigation unit that is specifically designed to investigate financial crimes such as corruption and money laundering, but this unit is in its very early developmental stages and does not appear to be receiving the resources needed to be effective over the long term.

The Government of Mauritania should enact anti-money laundering that includes all serious crimes and should enact counterterrorist financing legislation that comport with international standards.

Mauritius

Mauritius is a developing financial hub and a major route for foreign investments into the Asian sub-continent. Officials of the Government of Mauritius (GOM) indicate that the majority of money laundering in Mauritius takes the form of schemes aimed at channeling illicit proceeds through both domestic and offshore banks.

Money laundering is a criminal offense in Mauritius. In February 2002, Mauritius approved the Financial Intelligence and Anti-Money Laundering Act, which replaced the Economic Crime and Anti-Money Laundering Act of 2000. The Financial Intelligence and Anti-Money Laundering Act provides for the establishment of a Financial Intelligence Unit (FIU) located within the Ministry of Economic Development, Financial Services, and Corporate Affairs. The FIU became operational on August 9, 2002. The Financial Intelligence and Anti-Money Laundering Act also imposes penalties on persons committing money laundering offenses; establishes suspicious activity reporting obligations for banks, financial institutions, cash dealers, and relevant professions; and provides for cooperation with the FIUs of other countries. Mauritius plans to expand the reporting obligation to real estate agents, dealers in precious gems, and horse racing bookmakers. In 2004, most of the suspicious activity reports being filed came from the offshore sector.

The FIU has the responsibility of collecting and analyzing suspicious activity reports (SARs), and forwards those reports to the Independent Commission Against Corruption (ICAC). The ICAC, set up in June 2002, has the power to investigate money laundering offenses. The ICAC also has the authority to freeze and seize the assets related to money laundering. Since its inception, the FIU has developed into a fully functioning organization. The FIU was admitted to the Egmont Group in 2003. Its major challenge continues to be the development of an information technology structure to store SARs, perform complex analyses on them, and provide accessibility to the SARs to other law enforcement entities. As of November 2004, the FIU had received a total of 300 SARs, of which 100 had been referred to the ICAC. The FIU would like to put in place a system that will allow for the on-line submission of SARs. It would also like to develop partnerships with local and regional institutions involved in anti-money laundering and the prevention of terrorist financing activities.

Mauritius has an active offshore financial sector. In 2001, the Financial Services Development Act was passed. This Act established the Financial Service Commission (FSC), which performs the functions that were formerly carried out by the Mauritius Offshore Business Activities Authority (MOBAA). The FSC is responsible for the regulation, which includes the licensing, of the non-bank financial sector. All applications to form offshore companies (now called global business companies or GBCs) must be reviewed by the FSC. Information on companies can also be requested from the FSC. Along with reviewing of applications, the FSC supervises activities of GBCs.

The Prevention of Terrorism Act of 2002 was promulgated in Mauritius on February 19, 2002. This legislation criminalizes terrorist financing. The legislation gives the GOM powers to track and investigate terrorist-related funds, property, and assets, and cooperate with international bodies.

Mauritius is a party to the 1988 UN Drug Convention and to both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. Mauritius is a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body. In August 2003, representatives from Mauritius attended the ESAAMLG sixth meeting of the Task Force in Uganda. Mauritius also completed the first round of ESAAMLG mutual evaluations in 2003. In August 2004, Mauritius hosted the Fourth Meeting of the Council of Ministers of the ESAAMLG, and Minister Sushil Khushiram of the GOM Ministry of Industry, Financial Services and Corporate Affairs, was appointed Chairman of the ESAAMLG. Mauritius is a member of the Offshore Group of Banking Supervisors.

The Government of Mauritius should continue to take a leadership role in regional outreach through the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG). It should also continue to take an active role within the Egmont Group.

Mexico

The illicit drug trade continues to be the principal source of funds laundered through the Mexican financial system. Mexico is a major drug producing and drug-transit country. Mexico also serves as one of the major conduits for proceeds from illegal drug sales leaving the United States. Other crimes, including corruption, kidnapping, firearms trafficking, and immigrant trafficking are also major sources of illegal proceeds. The smuggling of bulk shipments of U.S. currency into Mexico and the movement of the cash back into the United States via couriers, armored vehicles, and wire transfers, remain favored methods for laundering drug proceeds. Mexico's financial institutions are vulnerable to currency transactions involving international narcotics-trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States.

Currently, there are 32 commercial banks and 80 foreign financial representative offices operating in Mexico, with seven commercial banks representing 88 percent of total assets in the banking sector. Commercial banks, foreign exchange companies, and general commercial establishments are allowed to offer money exchange services. Mexico has 81 insurance companies, one mutual insurance company, 13 bonding institutions, 211 credit unions, and 28 money exchange houses. The size of the underground economy is unknown, although it is estimated to account for anywhere between 20 and 40 percent of the gross domestic product in Mexico. While casinos are not permitted in Mexico, gambling is legally allowed through national lotteries, horse races, and sport pools.

Remittances from the United States to Mexico are at an all-time high, and are expected to have exceeded \$14 billion in 2004. Although non-bank companies continue to dominate the market for remittances, many U.S. banks have teamed up with their Mexican counterparts to develop systems to simplify and expedite the transfer of money. These measures include wider acceptance by U.S. banks of the matricula consular, an identification card issued by Mexican consular offices to Mexican citizens residing in the United States that has been criticized, based on security issues. In some cases, neither the sender nor the recipient of a remittance is required to open a bank account in the United States or Mexico, but must simply provide the matricula consular as identification and pay a flat fee. Although these systems have been designed to make the transfer of money faster and less expensive for the customers, the rapid movement of such vast sums of money by persons of questionable identity leaves the new money transfer systems open to potential money laundering and exploitation by organized crime groups.

According to U.S. law enforcement officials, Mexico remains one of the most challenging money laundering jurisdictions for the United States, especially with regard to the investigation of money laundering activities involving the cross-border smuggling of bulk currency from drug transactions. While Mexico has taken a number of steps to improve its anti-money laundering system, significant amounts of narcotics-related proceeds are still smuggled across the border. In addition, such proceeds can still be introduced into the financial system through Mexican banks or casas de cambio, or repatriated across the border without record of the true owner of the funds. Furthermore, despite advances in international cooperation and information sharing, it still remains difficult for U.S. law enforcement to obtain key financial records from Mexico, and to extradite money laundering defendants. These problems have hampered a number of recent U.S. law enforcement initiatives.

The Government of Mexico (GOM) continues efforts to implement an anti-money laundering program according to international standards such as those of the Financial Action Task Force (FATF), which Mexico joined in June 2000. Money laundering related to all serious crimes was criminalized in 1996 under Article 400 bis of the Federal Penal Code, and is punishable by imprisonment of five to fifteen years and a fine. Penalties are increased when a government official in charge of the prevention, investigation, or prosecution of money laundering commits the offense.

Regulations have been implemented for banks and other financial institutions (mutual savings companies, insurance companies, financial advisers, stock markets, and credit institutions) to know and identify customers and maintain records of transactions. These entities must report suspicious transactions, transactions over \$10,000, and transactions involving employees of financial institutions who engage in unusual activity.

Financial institutions with a reporting obligation now require occasional customers performing transactions equivalent to or exceeding \$3,000 in value to be identified, so the transactions can be aggregated daily to prevent circumvention of the requirements to file cash transaction reports (CTR) and suspicious transaction reports (STR). Financial institutions also have implemented programs for screening new employees and verifying the character and qualifications of their board members and high-ranking officers.

In 2001, Mexico established STR requirements for the smaller foreign exchange houses that process most of the remittances from Mexican workers in the United States, and in May 2004 reporting requirements for all exchange houses and money remittance businesses entered into effect. Legislation enacted in 2004 also expanded reporting requirements to many peripheral financial entities, such as real estate brokerages, attorneys, notaries, and accountants. Current provisions do not include reporting requirements for offshore banks or casinos.

In December 2000, Mexico amended its Customs Law to reduce the threshold for reporting inbound cross-border transportation of currency or monetary instruments from \$20,000 to \$10,000; at the same time, it established a requirement for the reporting of outbound cross-border transportation of currency or monetary instruments of \$10,000 or more. Mexico's reporting requirements included a wider range of monetary instruments (e.g. bank drafts) than those of the United States. In 2004 alone over \$14 million in unreported funds were seized at Mexican airports in joint operations with the United States. In the first operation, inspectors seized some \$13 million in drug-related currency in Mexico. In the

second operation, inspectors seized \$1.5 million and provided leads to colleagues in other countries that resulted in the seizure of another \$1.5 million in drug- related currency.

In 1997, the GOM established a financial intelligence unit, the Dirección General Adjunta de Investigación de Operaciones (DGAIO), under the Secretariat of Finance and Public Credit (Hacienda). The Hacienda expanded the authority of the DGAIO in 2004 by consolidating all of the Hacienda offices responsible for investigating financial crimes into the DGAIO, which has since been renamed the Unidad de Inteligencia Financiera (Financial Intelligence Unit, or UIF). In addition to its previous responsibilities as the DGAIO, the UIF also reviews all crimes linked to Mexico's financial system and examines the financial activities of public officials. The UIF's personnel now number 70—most of whom are forensic accountants, lawyers, and analysts. The director reports to the Minister of Finance. The UIF received an average of 500 STRs and 2,500 CTRs per month in 2004.

Following the analysis of CTRs and STRs, the UIF sends reports that are deemed to require further investigation, and have been approved by Hacienda's legal counsel, to the Office of the Attorney General (PGR). As of November, the UIF had sent 63 cases to the PGR in 2004, and 476 since its inception in 1997. As part of a more comprehensive approach to fighting organized crime, the PGR incorporated its special financial crimes unit—which has the authority to initiate, coordinate, and determine the course of preliminary financial crimes inquiries—into the Office of the Deputy Attorney General for Organized Crime (SIEDO). The UIF works closely with SIEDO in carrying out money laundering investigations. In addition to working with SIEDO, UIF personnel have initiated working-level relationships with other federal law enforcement entities, including the Federal Investigative Agency (AFI), in order to support the investigations of criminal activities with ties to money laundering.

In September 2003, Mexico underwent its second Mutual Evaluation by the FATF, and the findings of the evaluation team were accepted at the FATF plenary meetings in June 2004. The evaluation team found that the GOM had made progress since the first mutual evaluation by removing specific exemptions to customer identification obligations, implementing on-line reporting forms and a new automated transmission process for reporting transactions to the UIF, and slightly reducing the delay in reporting transactions overall. The GOM also developed an overall anti-money laundering strategy and plan.

However, the FATF evaluation team also identified a number of deficiencies in the system. Mexico does not have a separate offense of terrorist financing. Bank and trust secrecy continue to impede many aspects of Mexico's anti-money laundering/counterterrorist financing system, particularly for law enforcement and prosecutorial and judicial authorities during investigations and prosecutions. With regard to lifting bank secrecy, although customers are notified, the National Banking and Securities Commission (CNBV) must approve any requests for bank secrecy to be lifted during an investigation. The approval of such a request by the CNBV cannot be challenged, and financial institutions must respond with the required information within three days. If the CNBV does not approve the request, prosecutors must request a judicial order to lift bank secrecy, and the account holder may challenge the judge's decision. Limited co-ordination among key government institutions and procedural barriers impede effective money laundering prosecution.

In November 2003, the Senate passed proposed amendments to the Federal Penal Code that would link terrorist financing to money laundering. This legislation, once passed by the lower house of Congress, will bring Mexico into compliance with international standards. The proposed amendments also create two new crimes: conspiracy to launder assets, and international terrorism (when committed in Mexico to inflict damage on a foreign state). The legislation has not yet been passed, and it is unlikely that this will occur prior to the second half of 2005.

The lack of significant legislation criminalizing the financing of terrorism places Mexico in a position of noncompliance with the FATF Special Recommendations on Terrorist Financing and the UNSCR 1373 requirements. However, because terrorism is declared to be a serious crime, money laundering associated with terrorism is punishable under the existing Penal Code. The GOM has responded to U.S. Government (USG) efforts to identify and block terrorist-related funds, and, although no assets were frozen, it continues to monitor suspicious financial transactions.

Although the United States and Mexico both have forfeiture laws and provisions for seizing assets abroad derived from criminal activity, USG requests to Mexico for the seizure, forfeiture, and repatriation of criminal assets have not met with success, as Mexican authorities have difficulties with assets seized for forfeiture in Mexico if these assets are not clearly linked to narcotics. Most assets seized during law enforcement operations go to the Service for the Management and Transfer of Assets (SAE), a semi-autonomous branch of the Hacienda established in late 2002. Although Mexican officials have made significant progress in modernizing their approach to asset seizure, actual asset forfeiture remains a challenge. In two significant U.S. cases involving fraud, authorities seized real property and money generated from the crime. Although authorities gained forfeiture of the property in the United States, counterparts in Mexico did not carry out such orders in Mexico, nor have they returned related assets to the United States for forfeiture.

Mexico has developed a broad network of bilateral agreements with the United States, and regularly meets in bilateral law enforcement working groups with the United States. The GOM and the USG continue to implement other bilateral treaties and agreements for cooperation in law enforcement issues, including the Financial Information Exchange Agreement (FIEA) and the memorandum of understanding (MOU) for the exchange of information on the Cross-border Movement of Currency and Monetary Instruments. In October 2001, the U.S. Customs Service and Mexico City entrepreneurs inaugurated a Business Anti-Smuggling Coalition (BASC) that includes the establishment of a financial BASC chapter created to deter money laundering.

The United States temporarily suspended information exchange with Mexico in April 2004. Financial intelligence provided to the UIF by the U.S. financial intelligence unit (the Financial Crimes Enforcement Network, or FinCEN) was disseminated by the GOM without prior USG authorization. The unauthorized disclosure of sensitive financial information was done in breach of the well established and clearly defined protocols of FinCEN, as well as the principles of the Egmont Group—of which both the United States and Mexico are members—for information exchange. Information exchange resumed in June 2004 after Mexico substantially implemented a number of measures to ensure that information is disseminated to appropriate government agencies in a manner that protects its confidentiality and warns of the consequences of unauthorized disclosure.

In addition to its membership in the FATF, Mexico participates in the Caribbean Financial Action Task Force as a cooperating and supporting nation and in the South American Financial Action Task Force as an observer member. Mexico is a member of the Egmont Group and the OAS/CICAD Experts Group to Control Money Laundering. The GOM is a party to the 1988 UN Drug Convention. In 2003, the GOM ratified several other international treaties, including the UN Convention against Transnational Organized Crime, the UN International Convention for the Suppression of the Financing of Terrorism, and the Inter-American Convention Against Terrorism. The GOM ratified the UN Convention against Corruption in July 2004.

The Government of Mexico should fully implement and improve the mechanisms for asset forfeiture and money laundering cooperation with the United States, and should increase efforts to control the bulk smuggling of currency across its borders. Mexico should also closely monitor remittance systems for possible exploitation by criminal or terrorist groups. Mexico should enact its proposed legislation to criminalize the financing and support of terrorists and terrorism. Furthermore, despite the preventive mechanisms that have been put in place, improved cooperation among law enforcement authorities and a strong public campaign against corruption, Mexico continues to face challenges in prosecuting and convicting money launderers, and should continue to focus its efforts on improving its ability to do so.

Micronesia

The Federated States of Micronesia (FSM) is a sovereign state in free association with the United States. The FSM is not a regional financial center. It is not known to be a significant money laundering location and there has been no known money laundering related to narcotics proceeds or terrorist financing. Misuse of public funds has generated illicit proceeds and led to a number of indictments and convictions of politicians and their associates, including on money laundering charges. There may be limited financial crimes outside the formal banking sector by cash dealers involved in sending remittances to the home countries of some foreign workers. Financial crimes are rare in the

commercial sector. The FSM's distance from other countries and sparse transportation links to the outside world seem to have limited the amount of contraband brought into the FSM. The market for smuggled goods is not developed.

There are three financial institutions in the nation: the Bank of Guam, the Bank of the FSM, and the FSM Development Bank. The FSM Development Bank is a non-depository institution owned and financed by the FSM National Government. The Bank of Guam is chartered in the U.S. and falls under U.S. regulations and the Federal Deposit Insurance Corporation (FDIC). The locally chartered Bank of the FSM is the only non-U.S. bank insured by the FDIC. As a result, these two commercial institutions are subject to supervision by the FSM Banking Board as well as to inspection and regulation by the FDIC. The Banking Board has made the development and monitoring of anti-money laundering and anti-financing of terrorism activities one of its top priorities. There are no off-shore financial centers, banks, trusts, shell banks, casinos, or free trade zones in the FSM.

Money laundering is a criminal offense under the Money Laundering and Proceeds of Crime Act, in effect since 2001 and favorably reviewed by the IMF Legal Department. The Act criminalizes money laundering and provides for the freezing and seizure of assets, including substitute assets. It incorporates due diligence provisions. Predicate crimes include all serious offenses punishable by imprisonment of more than one year. The law also provides for collection of financial information and intelligence and international cooperation in money laundering matters. Officials and private individuals from Chuuk State were arrested on money laundering charges, related to misuse of government assets in 2004. The FSM Attorney General's office is developing revisions to the legislation to tighten requirements for record keeping, establish cross-country currency reporting requirements, address non-bank establishments, and allow civil as well as criminal actions for forfeiture to bring the statutes into better compliance with international standards. These changes are scheduled to be submitted to Congress in May 2005.

The FSM Department of Justice has established procedures for regular notification to the Banking Board of the names of suspected terrorist individuals and organizations. No assets of individuals or entities have been seized or frozen. The government recognizes the existing of alternative remittance systems for expatriate workers from the Philippines, but does not have resources to monitor this activity. The FSM is a party to the UN International Convention for the Suppression of the Financing of Terrorism. New counterterrorism legislation is under development; the draft is expected to be sent to Congress in May 2005; in lieu of these statutes, the FSM would apply the current money laundering law against terrorist financing.

Legislation to enhance law enforcement cooperation with the United States and other countries in investigating serious crimes was enacted as the Mutual Assistance in Criminal Matters Act of 2000. The FSM has cooperated with U.S. law enforcement agencies. The FSM is a party to the 1988 UN Drug Convention.

The Government of the Federated States of Micronesia should continue to enhance its anti-money laundering regime by criminalizing terrorist financing and adopting and implementing pending laws and regulations.

Moldova

Moldova is not considered an important regional financial center. It is a transit country, but the extent of related money laundering is unknown. As Moldova continues to suffer from severe economic conditions, proceeds from narcotics transactions remain small and incomes are generally low. Criminal proceeds laundered in Moldova are derived substantially from foreign criminal activity and, to a lesser extent, domestic criminal activity and corruption. A rise in Internet-related fraud schemes is evident. Although a significant black market exists in Moldova for a number of goods, narcotics proceeds are not a significant funding source. Instances of money laundering have occurred in the banking system. Domestic and foreign organized crime syndicates are believed to control most money laundering proceeds, and Government of Moldova (GOM) authorities are not known to encourage or facilitate laundering of proceeds from criminal or terrorist activity. While currency transactions involving laundered proceeds may include U.S. currency (counterfeit or genuine), regional organized crime activities likely account for the majority of profits.

Money laundering became a criminal offense in November 2001, and the law was amended in June 2002. It remained unchanged when the new criminal code was adopted in June 2003. The legislation applies to proceeds of "all crimes," not just narcotics activity, with banks and non-bank financial institutions (NBFIs) required to report transactions over a certain amount to the Center for Combating Economic Crimes and Corruption (CCECC). On July 1, 2004, the Law on Money Laundering was amended to raise the reporting threshold from 100,000 lei to 300,000 lei for individuals, and from 200,000 lei to 500,000 for legal entities. However, the amendments still require reporting transactions under the threshold if, when combined with other transactions during a one-month period, they reach a total which crosses that threshold. This amendment may actually increase the amount of reporting required. Current anti-money laundering legislation also covers gold, gems, and precious metals, and any person involved in laundering money.

Banks must maintain transfer records for a period of five years after an account opens or after any financial transaction takes place and seven years after foreign currency contract transactions, whichever is later. Suspicious transactions have been reported, as required, since the law was enacted. Both banks and NBFIs are protected from criminal, civil, and administrative liability asserted as a result of their compliance with the reporting requirements, and no secrecy laws exist that would prevent law enforcement or banking authorities from accessing financial records. A May 2003 amendment states that forwarding such information to law enforcement entities or the courts is not a breach of confidentiality, as long as it is done in accordance with the regulations. Current legislation contains provisions authorizing sanctions of commercial banks for negligence. GOM efforts against the international transportation of illegal-source currency and monetary instruments largely focus on cross-border currency reporting forms, completed at ports of entry (POE) by travelers entering Moldova.

The CCECC serves as Moldova's Financial Intelligence Unit (FIU). In 2004, the CCECC created a money laundering section of ten investigators to pursue suspicious financial transactions. According to Moldovan authorities, there are currently 11 full-fledged criminal investigations underway for money laundering, and 36 preliminary investigations that have been completed and recommended for opening full-fledged investigations. (Under Moldovan criminal procedure, cases first undergo a preliminary investigation by operative investigators before being sent to criminal investigators and prosecutors who decide whether a full investigation will be launched.) The CCECC identified a list of non-resident companies suspected of involvement in money laundering and asked all banks to report any transactions done by these entities in order to prevent illegal transactions. While banks were initially resistant toward money laundering legislation, they have since adopted compliance programs as required by the law. However, Moldova remains predominantly a cash society as people have little trust in banks. This makes money laundering investigations difficult.

Moldova is not considered an offshore financial center, and only two foreign banks exist in Moldova: "Banca Comerciala Romana," a Romanian bank; and "Unibank," in which the Russian bank "Petrocomert" holds 100 percent of the shares. These banks are regulated in the same manner as Moldovan commercial banks. Offshore banks are permitted, so long as they are licensed by the NBM and background checks are conducted on shareholders and bank officials. Nominee (anonymous) directors are not allowed, and banks do not permit bearer shares. The Ministry of Finance (MOF) currently licenses five casinos, although they are reportedly not well regulated or controlled.

Article 106 of the Moldovan criminal code, enacted June 12, 2003, relates specifically to asset seizure and confiscation. The article, titled "Special Seizures," describes a special seizure as the forced transfer of ownership of goods used during, or resulting from a crime to the state. The article may be applied to goods belonging to persons who knowingly accepted things acquired illegally, even when prosecution is declined. However, it remains unclear whether asset forfeiture may be invoked against those unwittingly involved in or tied to an illegal activity. Money laundering crimes are the purview of the CCECC, while narcotics-related seizures are within the jurisdiction of the Ministry of Interior (MOI). The GOM currently lacks adequate resources, training, and experience to trace and seize assets effectively.

Moldova codified the criminalization of terrorist financing in the Law on Combating Terrorism, enacted November 12, 2001. Article 2 defines terrorist financing, and Article 8/1 authorizes suspension of terrorist and related financial operations. Current GOM capabilities to identify, freeze, and seize terrorist assets are rudimentary, with investigators lacking advanced training and resources. While the

National Bank of Moldova (NBM) receives updated lists of suspected terrorists, no al-Qaida or Taliban related assets have been identified, frozen, or seized in Moldova. No hawala system exists in Moldova. Investigation into misuse of charitable or non-profit entities is non-existent, as the GOM has neither the resources nor ability to perform these tasks. In December 2004, the Parliament amended the law on money laundering to include provisions on terrorist financing. Moldova has made no arrests for terrorist financing.

No agreements, bilateral or otherwise, exist between the USG and the GOM regarding the exchange of records in connection with narcotics, terrorism, terrorist financing, or other serious criminal investigation. No negotiations are underway to establish such a mechanism. Current legislation does not prohibit cooperation on a case-by-case basis. GOM authorities continue to solicit USG assistance on individual cases and cooperate with U.S. law enforcement personnel when presented with requests for information/assistance. There are no known cases of GOM refusal to cooperate with foreign governments or of sanctions or penalties being imposed upon the GOM for a failure to cooperate. Moldova is a party to the 1988 UN Drug Convention, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, and the UN International Convention for the Suppression of the Financing of Terrorism, and cooperates in accordance with these agreements where resources and abilities permit. In addition to these, Moldova has signed an agreement with CIS member states for the exchange of information on criminal matters, including money laundering. In 2004, the CCECC was accepted as an observer at the Eurasian Group on Combating Money Laundering and as a candidate in the Egmont Group.

The Government of Moldova should continue to enhance and implement its anti-money laundering/counterterrorist financing regime. Moldova should ensure full implementation of its laws and improve the mechanisms for sharing information and forfeiting assets. Additionally, the Moldova should provide appropriate training for its law enforcement personnel and officials involved in the asset forfeiture program.

Monaco

The Principality of Monaco is considered vulnerable to money laundering due to its strict bank secrecy laws, network of casinos, and unregulated offshore sector. The principality does not face the ordinary forms of organized crime, and the crime that does exist does not seem to generate significant illegal proceeds (save for fraud and offenses under the Law on Checks); rather, money laundering offenses relate mainly to offenses committed abroad. Russian organized crime and the Italian Mafia reportedly have laundered money in Monaco. Monaco remains on an OECD list of so-called "non-cooperative" countries in terms of provision of tax information.

Monaco is the smallest country in Europe, after the Vatican. There are approximately 70 banks and financial institutions in Monaco, with more than 300,000 accounts (with a population of about 7,000 Monegasque nationals and another 25,000 foreign residents). Approximately 85 percent of the banking customers are nonresident. In 2002, the financial sector represented over 17 percent of Monaco's economic activity. The non-banking financial institutions include insurance companies, portfolio management companies, and trusts created through notaries, of which there are three, all nominated by the Prince. Accountants and the 25 legal professionals in the country are also included in the non-banking category. The real estate sector is another important area because of the high prices for land throughout the principality. There are also four casinos run by the Société des Bains de Mer (with a state-owned majority interest).

Monaco's banking sector is linked to the French banking sector through the Franco-Monegasque Exchange Control Convention signed in 1945 and supplemented periodically, most recently in 2001. Through this convention, Monaco uses the banking legislation and regulations issued by the French Banking and Financial Regulations Committee, including Article 57 of France's 1984 law regarding banking secrecy. Most of Monaco's banking sector is concentrated in portfolio management and private banking. The subsidiaries of foreign banks operating in Monaco can withhold customer information from the parent bank.

Monaco also has an offshore sector, and permits the formation of both trusts and five types of international business companies (IBCs): limited liability companies, branches of foreign parent

companies, partnerships with limited liability, partnerships with unlimited liability, and sole proprietorships. However, ready-made "shelf companies" are not permitted. The incorporation process generally takes four to nine months. Monaco does not maintain a central registry of IBCs, and authorities have no legal basis for seeking information on the activities of offshore companies.

Although the French Banking Commission is the supervisor for Monegasque institutions, Monaco shoulders its own responsibility for legislating and enforcing measures to counter money laundering and terrorism financing. Thus, though the rules are the same for both countries, the degree of enforcement may vary. The Finance Councilor (within the Government Council) is responsible for anti-money laundering implementation and policy. Money laundering in Monaco is a criminal offense. It is criminalized by Act 1.162 of 7 July 1993, "On the Participation of Financial Institutions in the Fight against Money Laundering," and Section 218-3 of the Criminal Code, and amended by Act 1.253 of 12 July 2002, "Relating to the Participation of Financial Undertakings in Countering Money Laundering and the Financing of Terrorism."

Banks, insurance companies, and stockbrokers are required to report suspicious transactions and to disclose the identities of those involved. Casino operators must alert the government of suspicious gambling payments possibly derived from drug-trafficking or organized crime. Another law imposes a five-to-ten-year jail sentence for anyone convicted of using illicit funds to purchase property (which is itself subject to confiscation).

The 2002 amendments to the 1993 money laundering legislation include bringing corporate service providers, portfolio managers, and Monaco Law 214 trustees, as well as institutions within the offshore sector, into line with the obligations of banks. New procedures have also been put into place, which include internal compliance, identification of the client, and records maintenance. Government authorities held briefings to explain the new procedures to companies requiring compliance officers. Meetings are also held with compliance officers so that implementation issues and concerns may be aired and addressed.

Offshore companies are subject to the same due diligence and suspicious reporting obligations as banking institutions, and Monegasque authorities conduct on-site audits. The 2002 legislation also strengthens the "know your client" obligations for casinos and obliges companies responsible for the management and administration of foreign entities not only to report suspicions to Monaco's Financial Intelligence Unit (FIU), but also to set up internal anti-laundering and counterterrorist financing procedures, the enforcement of which is monitored by the FIU.

Banking laws do not allow anonymous accounts, but Monaco does permit the existence of alias accounts, where the owner uses a pseudonym in lieu of the real name. Cashiers do not know the client, but the bank knows the identity of the customer and retains client identification information.

Prior approval is required to engage in any economic activity in Monaco, regardless of its nature. The Monegasque authorities issue approvals of the type of business to be engaged in, and the location for a given length of time. Of particular importance is the fact that this government approval is personal and may not be assigned. Changes in any of the above terms require the issuance of a new approval.

Monaco established its FIU, the Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN), to collect information on suspected money launderers. SICCFIN receives suspicious transaction reports, analyzes them, and forwards them to the Prosecutor when they relate to drug-trafficking, organized crime, terrorism, terrorist organizations, or the funding thereof. SICCFIN also is responsible for supervising the implementation of anti-money laundering legislation. SICCFIN also has provided training to intermediaries, most recently to lawyers and notaries. Under Law 1.162, Article 4, SICCFIN may suspend a transaction for up to twelve hours and advise the judicial authorities to investigate.

In November 2001, Monaco and France reached an agreement on initiatives to counter money laundering in the principality. The French Finance Ministry stated that SICCFIN had doubled the number of its staff, and that there had been a "noteworthy" increase in the number of suspicious activity reports being filed. The 2002 amendments to the money laundering legislation increase SICCFIN's investigatory powers. In 2002, SICCFIN received 275 disclosures, 33 of which were

passed to the Public Prosecutor for further investigation. In 2003, SICCFIN received 250 disclosures, 19 of which were referred to the public prosecutors. By mid-December 2004, SICCFIN had received an additional 326 disclosures, of which 18 were passed to the Public Prosecutor for further investigation. In 2004 SICCFIN received and answered 126 requests for financial information

Investigation and prosecution are handled by the two-officer *Unité de lutte au blanchiment* (Unit Against Money Laundering) within the police. The *Groupe de repression du banditisme* (Group Against Organized Crime) may also handle cases. Depending on the number and types of cases, there are seven police officers equipped to deal with money laundering. Monaco has had three convictions for money laundering, and one acquittal. Monaco encounters obstacles because predicate offenses for money laundering are committed abroad; despite the existence of money laundering, often the crime that receives the conviction is the predicate crime and not the money laundering offense.

Monaco's legislation allows for confiscation of property of illegal origin as well as a percentage of illegally acquired and legitimate property that has been co-mingled. A court order is required for confiscation. In the case of money laundering, confiscation of property is restricted to the offenses listed in the Criminal Code. On the basis of letters rogatory, over 11.7 million euros have been seized. Monaco has extradited criminals, mainly to Russia.

In July and August 2002, Monaco passed Act 1.253 and promulgated two Sovereign Orders, intended to implement UNSCR 1373, which outlaw terrorism and its financing. Monaco is a party to the UN International Convention for the Suppression of the Financing of Terrorism; in April and August 2002, Monaco promulgated Sovereign Orders to import into domestic law the international obligations it accepted when it ratified that Convention.

The Securities Regulatory Commissions of Monaco and France signed a memorandum of understanding on March 8, 2002, on the sharing of information between the two bodies. The agreement was a step in Monaco's efforts to conform to standards proscribed by the International Organization of Securities Commissions, whose mission is to establish international standards to promote the integrity of securities markets. The Government of Monaco sees the MOU as an important tool in combating financial crimes, particularly money laundering.

In 2004 SICCFIN signed information exchange agreements with counterparts in Malta, Poland, Andorra, Mauritius, Slovakia, Canada, and Peru. In previous years it had signed such agreements with Slovenia, Italy, Ireland, Lebanon, Switzerland, Liechtenstein, Panama, Luxembourg, France, Spain, Belgium, Portugal, and the United Kingdom. SICCFIN is a member of the Egmont Group. It is a priority for Monaco to satisfy mutual legal assistance requests, which are enforced swiftly, and there is no obstacle to international judicial cooperation.

Monaco was admitted to the Council of Europe on October 4, 2004. Well before that date, in 2002, SICCFIN approached the Council of Europe's MONEYVAL Committee and requested full participation in that Committee, including having an evaluation conducted on its anti-money laundering regime. In October 2002, the evaluation was performed; the evaluators acknowledged the extensive and thorough regime that has been developed.

Monaco is a party to the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. In May 2002, Monaco acceded to the Council of Europe Convention on the Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime.

The Government of Monaco should amend the Criminal Code to include an "all-crimes" approach, rather than the current list of predicate offenses. Monaco should also amend its legislation to implement full corporate criminal liability and establish a central registry for IBCs. Monaco should continue to enhance its anti-money laundering and confiscation regimes.

Mongolia

Mongolia is not a financial center. Crimes related to banking activities are relatively few, and an upward trend has not been observed. Markets in Mongolia are licensed and monitored by the

government authorities. Mongolia's vulnerability to transnational crimes such as money laundering has grown with the country's increased levels of international trade, tourism, and banking. Mongolia's long, unprotected borders with Russia and China make it particularly vulnerable to smuggling and narcotics-trafficking. The growing North Korean presence in Mongolia also makes the country vulnerable to counterfeit U.S. currency. Illegal money transfers and public corruption are other sources of illicit funds. Although the Government of Mongolia (GOM) is drafting anti-money laundering legislation, it has been slow in establishing interagency coordination mechanisms to help monitor international financial transactions. Moreover, growing corruption, a weak legal system, an inability to effectively patrol its borders to detect smuggling, and lack of capacity to conduct transnational criminal investigations all hamper Mongolia's ability to fight all forms of transnational crime. The prepared draft law "On Combating Against Money Laundering and Funding Terrorism" (draft AML law), which is projected to pass within the next two legislative sessions, and the draft law on amending the criminal code will have provisions that define money laundering as a criminal offense. In addition, actions involving use of illegally obtained assets and money are considered to be crimes.

The Central Bank, tax authorities and law enforcement agencies have the power to investigate, within their respective jurisdictions, transactions and books of banks and other financial institutions. According to Article 39 of the Criminal Code, officers of financial institutions are obligated to provide to law enforcement agencies information on crimes that have become known to them. The draft AML Law will introduce suspicious transaction reporting (STR) requirements. The draft AML law provides that legal entities conducting the activities of banks, non bank financial institutions, commercial insurance companies, activities described by Article 15.3.1 of the Law on Special Licensing of Commercial Activities, savings and loan cooperatives, and their subsidiaries or branches have an obligation to inform relevant agencies about applicable transactions. The draft AML Law also has a provision on monitoring the management of reporting entities.

Article 7 of the Law on Banking, which provides for the confidentiality of bank records, also states that a bank or its officers shall not be liable for cooperating with a law enforcement agency. The draft AML law has a similar provision. It also states that management and officers of a bank who are involved in crimes can be charged for criminal, civil and/or administrative violations.

The Law on Foreign Currency Regulation (Article 17 and others) has provisions that regulate the flow of foreign currency through the Mongolian border. Police pay attention to international trafficking of foreign currency or other payment documents that have illegal origins, but there have been no investigations to date. Since January 1, 2004, there have been no reported incidents of money laundering or terrorism funding, and likewise no arrests or prosecutions.

A draft law "On Amending the Criminal Code" has been developed together with the draft AML law to implement the requirements of UNSCR 1373. The Foreign Currency Department of the Central Bank regularly distributes the lists of members of al-Qaida, the Taliban and other associated persons, supplied by the USG, to banks and financial institutions along with recommended measures.

The President of Mongolia directed the introduction of legal regulations combating terrorism by issuing Decree #60 in 2001, entitled "Supporting Establishment of an International Coalition Against Terrorism". Accordingly, the GOM adopted Resolution #226 in 2001, entitled "Supporting Activities of the International Coalition Against Terrorism". The resolution requires relevant agencies to exchange information and cooperate with their counterparts in coalition countries regarding terrorists, drug-trafficking and money laundering actions. Both the directive and resolution are currently enforced with no objections by any political parties.

There is a system to track, identify, investigate, seize, confiscate or impose fines regarding assets created through grave crimes such as international trafficking, narcotics-related crimes or funding of terrorism. These proceedings shall be carried out according to rules provided by the Criminal Code and the Criminal Procedure Code. Assets confiscated or fines collected are transferred to the GOM budget.

Mongolia is a party to the 1988 UN Drug Convention. Mongolia became a party to the UN International Convention for the Suppression of the Financing of Terrorism on February 25, 2004. In recent years

Mongolia has increased its participation in fora that focus on transnational criminal activities and, in 2004, became a member of the Asia/Pacific Group on Money Laundering.

The Government of Mongolia should pass and implement comprehensive anti-money laundering and counterterrorist financing legislation. It should subsequently take steps to fully implement those laws and build a comprehensive anti-money laundering regime capable of thwarting terrorist financing that comports with international standards.

Montserrat

Montserrat has one of the smallest financial sectors of the Caribbean overseas territories of the United Kingdom. Volcanic activity between 1995 and 1998 reduced the population and business activity on the island, although an offshore financial services sector remains that may attract money launderers because of a lack of regulatory resources. There are no exchange controls for transactions below EC\$250,000.

As of 2003, Montserrat's offshore sector consists of 11 offshore banks, all owned and controlled by Latin American interests, approximately 22 international business companies (IBCs) and 30 Companies Act companies, the majority of which engage only in conducting local business. Insurance and trust services are negligible. IBCs may be registered using bearer shares, providing for anonymity of corporate ownership. The Financial Services Centre (FSC) regulates offshore banks, while the Eastern Caribbean Central Bank (ECCB) supervises Montserrat's two domestic banks. In 2002, the government entered into a memorandum of understanding (MOU) with the ECCB to provide assistance in the supervision of Montserrat's offshore banking sector, as the FSC does not have sufficient staff to undertake an ongoing supervision program for offshore banks. MOUs also have been entered into with four overseas regulators to provide a mechanism for collaboration in the supervision of most of the offshore banks. No examinations have been done of the offshore banks to evaluate their compliance with anti-money laundering programs.

The Proceeds of Crime Act (POCA), 1999, criminalizes the laundering of proceeds from any indictable offense except domestic drug-trafficking. Likewise, tipping off is prohibited except in money laundering cases tied to drug-trafficking. Both individuals and legal entities are subject to the law, and self-laundering is covered for all offenses. The legislation also imposes broad requirements on financial institutions regarding customer identification and record keeping and mandates the reporting of suspicious transactions to a designated authority. Under the POCA, the Governor has issued a non-mandatory Practice Code establishing further comprehensive guidance for financial institutions. There are no reporting requirements for cross-border currency movements.

The Offshore Banking Act (OB Act) and the Financial Services Commission Act, 2001 (FSC Act) are the governing pieces of legislation for the offshore sector. The OB Act addresses licensing of offshore banks, prudential and supervision requirements, and liquidation issues. The FSC Act establishes the FSC and sets out its authorities and administration.

The Money Laundering Regulations 2000 apply to banks, securities dealers, money transmission services, company management services, and financial leasing companies. The Regulations do not explicitly address offshore banks, and it remains unclear whether they are subject to the Regulations' requirements. The Regulations call for covered entities to maintain internal reporting procedures. Anonymous accounts are prohibited. Any suspicious activity must be reported to the police. Customer identification provisions contain exemptions that allow banks to open accounts and transact business without verifying customer identity. For example, no identification is required for one-off transactions under EC \$40,000, nor is it required when a customer is introduced to the bank—the introducer may provide written assurance the customer has been subject to identification. Banks are required to keep records for five years; however, inspections of domestic banks have shown widespread deficiencies in implementation. The Practice Code contains more explicit instructions for banks, but because it is not mandatory, deficiencies are apparent in the implementation of many requirements.

The Reporting Authority (RA) was established in 2002, under the POCA, to serve as Montserrat's Financial Intelligence Unit (FIU). The RA consists of the Commissioner of Financial Services, the Attorney General and the Commissioner of Police. The Order establishing the RA sets forth only a

single power, to disclose information it receives to law enforcement agencies; however, subsequent amendments have provided for the receipt of suspicious transaction reports (STRs). It does not authorize the receipt or analysis of information, although this occurs in practice. As of October 2002, 20 STRs had been received by the RA, all from one offshore bank. As of 2003, there have been no prosecutions for money laundering.

Montserrat has criminalized terrorist financing. The UN International Convention for the Suppression of the Financing of Terrorism has not been extended to Montserrat; however, Montserrat has implemented provisions in local legislation to put into practice applicable provisions of the Convention. The UNSCR 1267 Sanction Committee's consolidated list is circulated to financial institutions.

The POCA provides for freezing and confiscation of the proceeds of crime and international cooperation. Except in terrorist financing cases where a restraint order may be obtained once a criminal investigation has commenced, criminal proceedings must be instituted before assets can be frozen. As of 2003, no property related to money laundering or terrorist financing had been frozen, seized or confiscated. Montserrat has not considered a mechanism to share seized assets.

In October 2002, the Caribbean Financial Action Task Force (CFATF) conducted a second round mutual evaluation of Montserrat, in conjunction with the IMF and World Bank.

U.S. law enforcement cooperation with Montserrat is facilitated by a treaty with the United Kingdom concerning the Cayman Islands, relating to mutual legal assistance in criminal matters, that was extended to Montserrat in 1991. Montserrat's current legislation, however, makes information exchange difficult between regulators and foreign authorities. Montserrat is a member of the CFATF and is subject to the 1988 UN Drug Convention.

The Government of Montserrat should criminalize self-laundering related to domestic drug-trafficking. Montserrat should make the full operation of the Reporting Authority a priority, including assuring it has the necessary authority to receive and analyze suspicious transaction reports. It should enact measures to identify and record the beneficial owners of IBCs and immobilize bearer shares. Montserrat also should enact cross-border currency reporting requirements and close the loopholes in its customer identification procedures. Montserrat must ensure adequate oversight and supervision of its offshore sector to deter criminal and terrorist organizations from abusing its financial services sector.

Morocco

Morocco is not a regional financial center and the extent of the money laundering problem in Morocco is not known. Morocco remains an important producer and exporter of cannabis, with estimated revenues of \$12 billion annually, according to a joint study released in late 2003 by the United Nations Office on Drugs and Crime (UNODC) and Morocco's Agency for the Promotion and the Economic and Social Development of the Northern Prefectures and Provinces of the Kingdom. Some of these proceeds may be laundered in Morocco and abroad. There is no indication that international or domestic terrorist networks have engaged in widespread use of the narcotics trade to finance terrorist organizations and operations in Morocco. Press reports indicate, however, that the Spanish investigation into the March 11, 2004 terrorist bombings in Madrid found that the alleged Moroccan national perpetrators of the attacks financed the purchase of the explosives used in the blasts through modest sales of cannabis resin in Spain.

Morocco has a significant informal economic sector, including remittances from abroad and cash-based transactions. There are unverified reports of trade-based money laundering, including bulk cash smuggling, under- and over-invoicing, and the purchase of smuggled goods. Banking officials have indicated that the country's system of unregulated money exchanges provides opportunities for potential launderers. Morocco has a free trade zone in Tangier, with customs exemptions for goods manufactured in the zone for export abroad. There have been no reports of trade-based money laundering schemes or terrorist financing activities using the Tangier free zone or the zone's offshore banks, which are regulated by an interagency commission chaired by the Ministry of Finance.

There have been no reported arrests or prosecutions for money laundering or terrorist financing in Morocco since January 1, 2004. Morocco has a relatively effective system for disseminating U.S. Government (USG) and United Nations Security Council Resolution (UNSCR) freeze lists to the financial sector and law enforcement. Morocco has provided detailed and timely reports requested by the UNSC 1267 Committee. A handful of small value accounts have been administratively frozen based on U.S. Executive Order 13224 freeze lists.

The Moroccan financial sector is modeled after the French system and consists of 16 banks, five government-owned specialized financial institutions, approximately 30 credit agencies, and 12 leasing companies. The monetary authorities in Morocco are the Ministry of Finance and the Central Bank, Bank Al Maghrib (CBM), which monitors and regulates the banking system. A separate Foreign Exchange Office regulates international transactions. Morocco has used administrative instruments and procedures to freeze suspect accounts.

However, CBM issued Memorandum No. 36 in December 2003, in advance of passage of still pending anti-money laundering legislation, instructing banks and other financial institutions to conduct their own internal analysis/investigations. It also mandates "know your customer" procedures, reporting of suspicious transactions and the retention of suspicious activity reports. Morocco also has in effect: legislation prohibiting anonymous bank accounts; foreign currency controls that require declarations to be filed when transporting currency across the border, although not strictly enforced; and internal bank controls designed to counter money laundering and other illegal/suspicious activities.

In June 2003, Morocco implemented a comprehensive counterterrorism bill that provided the legal basis for the lifting of bank secrecy to obtain information on suspected terrorists, freeze suspect accounts and prosecute terrorist finance-related crimes. The law also provides for the seizing and confiscation of terrorist assets and for international cooperation with regard to foreign requests for freezing assets of a suspected terrorist entity. This law brought Morocco into compliance with UNSCR 1373 requirements for the criminalization of the financing of terrorism.

As of December 2004, Morocco was moving towards the enactment of two laws that will further strengthen Morocco's anti-money laundering system: a banking/financial sector reform bill and an anti-money laundering bill. The anti-money laundering bill reportedly includes, among other provisions, a suspicious transaction reporting scheme and the creation of a Financial Intelligence Unit (FIU). The bills are based on the Financial Action Task Force (FATF) Forty Recommendations and Egmont Group guidelines and will help bring Morocco's financial sector in line with international standards.

Together, the three bills will enhance the supervisory and enforcement authority of the Central Bank and outline investigative and prosecutorial procedures. In the interim, the Central Bank has already mandated "know your customer" requirements and the reporting of suspicious transactions by financial institutions. All money transfer activities that take place outside the realm of the official Moroccan banking system—as set by the CBM guidelines—are deemed illegal. The pending bills will also expand the CBM's regulatory authority over non-banking financial transactions. Other significant provisions include: the lifting of bank secrecy during investigations, as well as legal liability protection of bankers and investigators for cooperation during investigations.

Morocco is a party to the UN International Convention for the Suppression of Financing of Terrorism, and the UN Convention against Transnational Organized Crime. Morocco is also a party to the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention); in fact, Morocco has ratified or acceded to all UN and international conventions and treaties related to counterterrorism.

The Government of Morocco should move expeditiously to pass the banking sector reform bill and the anti-money laundering bill. As part of its anti-money laundering program, Morocco should establish a centralized Financial Intelligence Unit (FIU) that will receive and analyze suspicious transaction reports and disseminate them to appropriate law enforcement agencies for investigation.

Mozambique

Mozambique is not a regional financial center. Money laundering is fairly common, however, and local authorities believe that narcotics proceeds have helped finance the recent proliferation of new restaurants, shopping centers, hotels, and mosques in the country, especially in the capital. These businesses reputedly conceal profits made by those importing hashish and heroin from South Asia via Tanzania and, to a lesser extent, cocaine from South America via Brazil. Most narcotics are destined for South African and European markets; Mozambique is not a significant consumption destination and is rarely a transshipment point to the United States. Local organized crime controls narcotics-trafficking operations in the country, with certain recent immigrants from Pakistan and India also playing a prominent role. Money laundering in the banking sector is also considered to be a serious problem; and in recent years, prominent public figures in the Central Bank, the law enforcement community and the media have been murdered for investigating fraud and money laundering in these institutions. For example, in 2001, the Chief of Banking Supervision at the Central Bank was murdered in the stairwell of a bank that had been under investigation. Despite these problems, or perhaps because of them, there are no known links between Mozambique-based drug traffickers, money launderers and the financing of terrorists.

The financial sector in general is not believed to be experiencing any reported increase in crimes such as money laundering, but it is hard to be certain because very few instances of laundering are formally reported or investigated. Black markets for smuggled goods and financial services are widespread, dwarfing the formal retail and banking sectors in most parts of the country and making it difficult to determine when and where laundering of narcotics money takes place. Local officials are often directly involved with drug trafficking and the laundering of profits, including the ex-chief of the Criminal Investigative Police and several of his top officers, who are now awaiting trial on narcotics-trafficking charges. Evidence of money laundering was cited by the government as a reason for arresting these officials in 2003, but they are being prosecuted for narcotics-trafficking, not money laundering.

Money laundering has long been a criminal offense in Mozambique, but criminal charges and prosecutions for money laundering have been rare because the law had not been narrowly defined until enactment of the 2002 Anti-Money Laundering Act. Implementing regulations for most components of this law were only issued in September 2004, with more regulations reportedly forthcoming in 2005. The law contains specific provisions related to narcotics-trafficking, but also includes a wider range of offenses as predicates for money laundering. There were no money laundering arrests in 2004, nor any prosecutions.

According to the 2002 law, banks and exchange houses must immediately record and report to the Attorney General's office any cash transaction valued at 441 times the national minimum wage, which amounts to about \$18,000. In addition, exchange houses are required to turn in records of all transactions on a daily basis. All credit card transaction attempts over 5,000 must also be reported and can only be processed with approval from the Central Bank. Banks and exchange houses are required to keep transaction records for 15 years (Article 15 of 2002 law). Financial institutions are required to report any suspicious transactions immediately to the Attorney General's office (Article 16). The Attorney General, in turn, is required to determine within 48 hours whether to permit the transaction (Article 19). Individuals who report suspicious transactions in good faith receive protection under the 2002 law (Article 21). Bank secrecy laws exist in Mozambique but do not apply in the case of suspected money laundering (Article 17).

The 1996 Money Exchange Act requires any individual carrying more than \$5,000 over the border to file a report with Customs. Taking more than \$5,000 in local currency out of the country is prohibited. The 2002 Anti-Money Laundering Act includes due diligence provisions that make both respective bankers and banks responsible if financial institutions launder money (Article 27). Money laundering controls apply to all formal non-banking financial institutions, including exchange houses, brokerages houses, casinos and insurance companies. Cash couriers must meet cross-border currency requirements, but usually fall outside the scope of anti-money laundering law because they generally work in the informal sector.

Mozambique has not explicitly criminalized the financing of terrorism. Its 1991 Crimes against the Security of State Act criminalizes terrorism, but financing is not addressed. The 2002 anti-money laundering law does list terrorism finance as a serious crime subject to the scope of the law, but elaborates no further (Article 4). The same law codifies Mozambique's long-authority to identify,

freeze, seize and/or forfeit the assets of those charged with financial crimes, including terrorist financing (Articles 5 and 6). Financial institutions do not have direct access to the names of persons or entities included on the UN 1267 Sanctions Committee consolidated list or the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224; these lists are distributed only to the Central Bank, the Attorney General, and the Ministry of Foreign Affairs. Authorities in these institutions have not positively identified any of the persons or entities on these lists operating in Mozambique, and therefore no assets have been identified, frozen, or seized.

Mozambique is not considered an offshore financial center. Many local businessmen use offshore banking in nearby countries, such as Mauritius. There are no free trade zones in Mozambique. Authorities acknowledge that alternative remittance systems are common in Mozambique, many of which operate in exchange houses that, on paper, are heavily regulated but in fact can easily avoid reporting requirements. There are no serious legislative, judicial, or regulatory measures being considered to address this problem. Charitable institutions must receive approval by the Ministry of Justice (MOJ) before receiving a charter, and are subject to investigation by the MOJ thereafter. However, there is no evidence of the MOJ seriously investigating any charities at this time.

Mozambique is a party to the 1988 UN Drug Convention and the International Convention for the Suppression of the Financing of Terrorism. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. It is also a member of a FATF-style regional body, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). Mozambique has entered a series of formal agreements with neighboring countries to share financial information required by law enforcement bodies. Cooperation with the United States on these matters has taken place on an informal basis.

The 2002 Anti-Money Laundering Act contains provisions authorizing the seizure and forfeiture of assets, including those of legitimate businesses used to launder money. In such a case, the Central Bank would be responsible for the initial tracing of assets and the Attorney General would be responsible for freezing and confiscating assets. The Attorney General also has authority to auction off confiscated assets and to distribute proceeds to a range of parties. Despite this legal framework, the institutions authorized to implement the law do not have an established system for identifying and freezing narcotics-related assets, and no assets have been seized to date under the 2002 Anti-Money Laundering Act.

The law allows for both civil and criminal forfeiture. An example of civil forfeiture would be the seizure of cash in excess of the \$5,000 limit from an individual who tried, secretly, to carry this amount across the border. The seized funds would be sent by Customs to the Central Bank. Appeals then could be made directly to the Bank. Private financial institutions are more closely regulated by criminal forfeiture acts, but are also subject to civil suits. Financial institutions also have the right to file a civil suit against the government for loss of business in cases of unreasonable suspension, a provision that will likely discourage enforcement of the law.

The Government of Mozambique should clarify that the financing of terrorism is specifically criminalized, either by its 1991 or 2002 legislation, or else it should do so in a new instrument. It should proceed as soon as possible with the issuance of the additional implementing regulations to the 2002 Anti-Money Laundering Act. It should establish a financial intelligence unit in accordance with international standards. It should ratify the UN Convention against Transnational Organized Crime. It must also address some additional and serious obstacles to enforcement of its laws, such as resource constraints affecting the Attorney General's office and the Criminal Investigative Police, significant corruption of the latter, and intimidating tactics on the part of organized crime against investigating prosecutors at the Attorney General's Anti-Corruption Unit. These practical measures will be necessary to enforce any laws.