

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 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 ratified and became a full party to the International Convention for the Suppression of Financing of Terrorism on June 16, 2003. Jordan has checked for assets of terrorists and terrorist groups identified by the United Nations 1267 Sanctions Committee, although no such assets have been identified in Jordan to date. In early 2003 there were unconfirmed press reports that millions of dollars of charitable donations given to an unlicensed and unregistered Islamic charity in New York, were smuggled out of the U.S and subsequently laundered through Jordanian banks en route to Iraq. There have also been investigations into the smuggling of cigarettes and other commodities into Iraq via a Jordanian network that laundered kickbacks to the regime of Saddam Hussein.

Jordan has neither enacted a comprehensive anti-money laundering law, nor established an independent financial intelligence unit (FIU). Anti-money laundering efforts are handled by an anti corruption 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 waives banking secrecy provisions in cases of suspected money laundering and terrorism financing.

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

Jordan has taken steps in constructing an anti-money and antiterrorist finance 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. Jordanian law enforcement and customs should examine forms of trade-based money laundering.

Kazakhstan

Kazakhstan has a relatively advanced financial infrastructure in comparison to other countries in the region. When combined with the presence of organized crime, entrenched smuggling networks, and corruption in the sizeable oil industry, the country is vulnerable to money laundering. Smuggling of cash is also an ongoing problem in Kazakhstan. Although travelers are required to report the amount of cash they are carrying as they enter or exit the country, porous borders and corrupt officials allow a large amount of cash to pass undetected. Most of the smuggled cash is probably related to illegal capital flight, but there are reports that Kazakhstan has become a transport route for narcotics into Russia and cash and trade items moving into Afghanistan to finance terrorist organizations. It is estimated that 80-90 percent of drugs seized in Kazakhstan originate in Afghanistan.

Relatively large cash seizures of U.S. dollars have been seized at Kazakhstan’s borders. And in one money laundering case, an undeclared \$831,200, originally from Kazakhstan, was seized by French customs. There was a recent scandal involving the Kazakh Eurasian Bank group, three of whose

officials were charged in Belgium with money laundering in connection with the purchase of a villa near Brussels. Kazakhstan suffers high levels of illegal capital flight despite the existence of currency controls and capital transfer restrictions. The Ministry of Finance has estimated that between \$500 million and \$1 billion are lost annually in illegal fund transfers abroad. Much of the capital flight is achieved via the practice of transfer pricing, particularly in the oil sector. Oil swaps are also common. The arrangement provides a way to get oil to refineries and then to market from remote oil fields and isolated nations like Kazakhstan. Title to oil in one location is transferred to an available oil supply that might be thousands of miles away. Oil swaps can be appropriate and even necessary but they also create perceptions that the energy sector is vulnerable to bribery and money laundering. Kazakhstan is ranked low on the Transparency International Corruption Perceptions Index.

Money laundering was criminalized in Kazakhstan by Article 30 of the 1998 antidrug law, which makes it illegal to launder money in connection with the sale of illegal drugs. However, the definition of money laundering used in the act is narrow. 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. In January 2002, the Tax Committee was replaced by the Financial Police Agency, which has authority to investigate money laundering and other financial crimes. The Government of Kazakhstan (GOK) is reportedly aware of the problems with the policing of financial crimes, including money laundering, and is taking corrective measures. The GOK has made limited efforts to pass anti-money laundering legislation, but it is not anticipated that this will happen before 2005. The National Bank has established a “know your customer” program and has asked local banks to report suspicious financial activities. Perhaps as a result, there are reports that large amounts of money seem to be moving into less regulated parts of the economy.

Kazakhstan ratified the 1988 UN Drug Convention 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. Kazakhstan is also 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, Kyrgyzstan, Tajikistan and Uzbekistan.

Kazakhstan is still in the process of developing some of the key legal and institutional frameworks to guarantee successful economic security and development. As part of this program, Kazakhstan should pass comprehensive anti-money laundering and terrorist and terrorism financing laws that adhere to world standards. Kazakhstan law enforcement and customs authorities should examine smuggling and trade-based money laundering.

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 the money.

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.

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

stipulate 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 nonbank 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.

Kenya is a party to the 1999 UN International Convention for Suppression of the Financing of Terrorism. It has cooperated fully with the United States and the UK, but does not itself have the investigative skills or equipment to conduct complex investigations independently. In April 2003, the 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, not because of the bill’s antiterrorism aspects as such. The public does support the government’s attempts to increase transparency and to clean up 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 could lead to de-registration; however, this is rarely enforced. The government did de-register some NGOs 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 agreement with the U.S. 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 by Kenya will help to formalize its relationship with the U.S. 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 has not yet been passed. The key points of legislation currently under consideration 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. However, much drafting is still to be done, and the provisions regarding the financing of terrorism may be subsumed in the Suppression of Terrorism Bill discussed above. The proposed legislation is not explicit on seizing legitimate business if 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 its comprehensive anti-money laundering legislation and Suppression of Terrorism Bill legislation.

Korea, Democratic People's 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.

North Korea should enact a comprehensive anti-money laundering regime and take steps to stop financial crimes originating in North Korea.

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, 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.

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. In 2002, the National Intelligence Service (NIS) submitted an antiterrorism bill to the National Assembly, but it has not yet been passed. Many politicians and nongovernmental organizations (NGOs), recalling past civil rights abuses in Korea by the government, oppose the pending antiterrorism 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 antiterrorism 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 its Korean Financial Investigative Unit (KoFIU, authorized by the Ministry of Finance and Economy) the ROK circulated to its financial institutions the list of individuals and entities that have been included in the UN 1267 Sanctions Committee's consolidated list as being linked to Usama Bin Ladin or members of the al-Qaida organization or the Taliban, or that 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 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 Financial Transactions Reports Act (FTRA), passed in September 2001, requires financial institutions to report suspicious transactions to a financial intelligence unit (FIU) within the Ministry of Finance and Economy. In November 2001 the Korean Cabinet issued regulations implementing the newly enacted FTRA, and officially launched the Korea Financial Intelligence Unit (KoFIU). KoFIU 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. Currently, financial institutions must report transactions of over 50 million won (about \$42,000) that are suspected of being tied to criminal proceeds or to tax evasion, and they may report transactions in lesser amounts if there are "reasonable" grounds for doing so. Efforts are being made to lower the reporting threshold to 20 million won for suspicious transactions for 2004. Improper disclosure of financial reports is punishable by up to five

Money Laundering and Financial Crimes

years imprisonment and a fine of up to 30 million won (about \$25,000). In addition, KoFIU supervises and inspects the implementation of internal reporting systems established by financial institutions.

Since its inception in November 2001, KoFIU has received a total of 1,713 suspicious transaction reports (STRs) from financial institutions. It has completed analysis of 1,276 of them, and provided 413 reports to law enforcement agencies as of November 30, 2003, according to KoFIU. 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). In terms of large cases, the managing directors of the SK Group, a conglomerate, were prosecuted for laundering 10 billion won (\$8.4 million), in checks and securities, in November 2003.

Money laundering controls are applied to nonbanking 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.

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 \$1.6 million worth of assets related to seven drug trades in 2003, representing a big increase from 2002. The prosecutor's office seized \$109,000 of assets related to illegal foreign exchange transactions in 2002, of which \$53,000 was related to drug trafficking. The ROKG plans to establish 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.

The ROK continues to address the problem of the transportation of counterfeit international currency. In the first ten months of 2003, the Central Bank reported that local banks uncovered 136 cases of counterfeit foreign currency—representing an increase of 25 percent over the same period of 2002. Among these counterfeit cases, 89 percent involved U.S. dollars, an increase of about one percent from the previous year.

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, but has not yet ratified it. The ROK also signed in Dec. 2003, but has not ratified, the UN Convention Against Corruption, which is not yet in force. The ROK is an active member of the Asia/Pacific Group on Money Laundering, and in 2002 KoFIU assumed the position of co-chair. 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 Korean 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), and Colombia and Venezuela (November 2003) to facilitate the exchange of information on money

laundering. KoFIU is negotiating similar MOUs with the United States, Japan, and Canada. These agreements are expected to enhance the government's asset tracing and seizure abilities.

The passage of the terrorism financing bill, if coupled with existing recent measures, would provide the ROKG with powerful tools to combat money laundering. Korea should criminalize the financing and support of terrorism and should continue to move forward to adopt and implement its pending legislation. The ROK should extend its anti-money laundering regime to financial intermediaries. The ROK 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, South Korean law enforcement officials have begun to fully grasp the negative potential impact such activity has in their country and to take steps to combat its growth. The ROK should also accede to the UN International Convention for the Suppression of Terrorism.

Kuwait

Kuwait is not a major regional financial sector; it has seven commercial banks and one Islamic bank, all of which provide traditional banking services comparable to those of Western-style commercial banks. Kuwait also has two specialized banks, the Real Estate Bank of Kuwait and the government-owned Industrial Bank of Kuwait, that provide medium and long-term financing. Regulators do not believe that money laundering is a significant problem, and most laundered funds are generated as a byproduct of local drug and alcohol smuggling. Funds and assets generated by criminal activity are subject to forfeiture.

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 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, perform training and establish internal control systems, and report any suspicious transactions. Currency smuggling is also outlawed.

Law No. 35 designates the Public Prosecution Department (PPD) as the sole authority to receive reports on money laundering operations, and to take the necessary actions. Reports of suspicious transactions are referred from PPD to the Central Bank's financial intelligence unit (FIU) 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. The law includes articles on international cooperation, and on monitoring cash and precious metals transactions. Provisions of Article 4 of Law No. 35 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). There are no similar reporting requirements for outbound currency or precious metals.

The law authorizes the Minister of Finance to set forth the resolutions necessary to ensure its implementation. The Minister of Finance can issue resolutions to enhance combating money laundering operations without the need to amend the legislation. Moreover, banks and financial institutions may face a steep fine (approximately \$3.3 million) if found in violation of the law.

In addition to Law No. 35, anti-money laundering reporting requirements and other rules are contained in the Central Bank of Kuwait's (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 KD3,000 (article 20). A detailed appendix to the instructions has guidelines to help bank employees identify suspicious transactions.

In September 2002, insurance companies, exchange bureaus, gold and precious metals shops, brokers in the Kuwait Stock Exchange, and all other financial brokers, were placed under the supervision of the Ministry of Commerce and Industry. Such sectors must abide by all regulations concerning customer identification, record keeping of all transactions for five years, internal control systems, and the reporting of suspicious transactions.

In addition, CBK issued circular no. (2/sb/95/2003) in 2003, which was directed toward money changing companies and which contained 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.

Kuwait's one Islamic bank, Kuwait Finance House (KFH), is licensed and supervised by the Ministry of Commerce and Industry, which apparently does not examine KFH's books. KFH does, however, produce annual audited financial reports. The CBK will take over supervision of KFH in 2004.

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. U.S. authorities have designated the branches in Pakistan and Afghanistan as being used to funnel funds to terrorist organizations. There is no indication that such activities occurred with the knowledge of the Kuwaiti head office, which thus remains undesignated.

In August 2002, the Kuwaiti Ministry of Social Affairs and Labor issued a ministerial decree to create a 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 explaining how charities must collect donations and finance their 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. However, in February 2003, a prominent member of the Kuwaiti ruling family, who also held positions with the Cabinet, accused some Islamic movements in the country of financing terrorist acts in Kuwait earlier that year. He warned of the existence of unlicensed charitable associations and organizations in the country, which had infiltrated the Parliament, and go unsupervised by the authorities.

On June 23, 2003, the Central Bank of Kuwait issued resolution no. 1/191/2003 establishing the Kuwaiti Financial Intelligence Unit (KFIU) as an independent entity within the Central Bank. The goals of KFIU are to receive and analyze reports of suspected money laundering from the public prosecution department, 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 PPD. KFIU has a staff of seven.

Several cases have been opened under Law No. 35. but the majority of them were closed after investigations did not disclose prosecutable offenses. Only two cases have gone to courts, where they were under litigation at year's end. The cases reportedly involve money smuggling and failure to report currency transactions, and do not involve banks.

The 2002 law on money laundering does not cite terrorist financing as a crime; however, the definition of criminal activity is broad. Kuwait established a national committee to follow up on all issues concerning terrorism. Two terrorist suspects were charged in late 2002 with “gathering funds for, and financing the establishment of, military training camps abroad.”

The Gulf Cooperation Council represents Kuwait on the Financial Action Task Force (FATF). Kuwait is a party to the 1988 UN Drug Convention. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Kuwait should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Kuwait is making progress in enforcing its domestic anti-money laundering program. The passage of the CBK’s anti-money laundering clarifying instructions represents a significant step forward. However, KFIU needs to gain experience in dealing with suspicious transactions. The KFIU also needs to assemble and automate various financial databases. Kuwait should also make outbound currency and precious metals declarations mandatory. More interagency cooperation and coordination between KFIU and other concerned parties could yield significant improvements in proactive investigations and international information exchange. A specific counterterrorism finance law should also be enacted.

Kyrgyzstan

Kyrgyzstan (the Kyrgyz Republic) is not a regional financial center. Money laundering is not a crime in the Kyrgyz Republic. Moreover, it has a comparatively underdeveloped banking system. And like other countries in the region, the Kyrgyz Republic is susceptible to alternative remittance systems to launder money or transfer value such as hawala and trade fraud. The major sources of illegal proceeds are domestic and include narcotics trafficking, smuggling of consumer goods, tax and tariff evasion, and official corruption.

The Central Bank has provisions that require customer identification procedures and make an exception to bank secrecy rules for suspicious transaction reporting, but these provisions are reportedly ignored by the commercial banks. Oversight of the banking sector remains weak and Kyrgyzstan’s law enforcement agencies lack the resources and expertise to conduct effective financial investigations.

In 2002, the Kyrgyz legislature began consideration of a draft law to criminalize money laundering, the law “On Opposition to Legalization (Laundering) of Incomes Obtained in Illegal Way in the Kyrgyz Republic.” The bill has not yet been passed. The draft law defines predicate offenses or criminal conduct as income “obtained as a result of committed crime.” Mandatory suspicious transaction reporting by Kyrgyzstan financial institutions is included in the draft law. The law does not address money laundering methodologies that by-pass financial institutions. Details and possible revisions of the draft legislation are as yet unclear.

The Kyrgyz Republic is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Also in 2003, Kyrgyzstan signed the UN International Convention for the Suppression of the Financing of Terrorism.

The Kyrgyz Republic should approve comprehensive anti-money laundering and antiterrorism finance legislation that adheres to international standards. The Kyrgyz Government should also be aware that money laundering can easily by-pass financial institutions and take enforcement measures to address these vulnerabilities.

Laos

Laos 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. 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 is drafting a money laundering law with antiterrorism finance components, based upon a model law provided by the Asian Development Bank. It is anticipated the proposed legislation will be introduced during the first quarter of 2004. The law is expected to criminalize money laundering and terrorist financing. A Financial Intelligence Unit (FIU) is to be established, which will supplant the very small and informal one currently in place. It is believed 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 believed 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. Before it is enacted into law, the draft legislation will be reviewed by the National Assembly and may undergo significant changes.

Laos currently has strict laws on the export of its currency, the Lao 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 has stated its goal to become a party to 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.

Laos should pass anti-money laundering and antiterrorism financing legislation. Laos should also become a party to the 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 nonresident 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, and prostitution. Organized crime is thought to account for two-thirds of laundered proceeds. Latvia's mainly cash economy has been moving toward the use of electronic, credit, and other noncash payments. At the same time, there are no restrictions in Latvia on cross-border currency movement (cash or noncash, domestic or foreign) or the physical movement of other financial instruments. In December 2003 there were 20 casinos, 503 gaming halls, 1,487 gambling places (such as cafes and bars), and 10,597 gambling machines.

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 AML law) requires all institutions engaging in transactions to report suspicious activity. Amendments to the AML law, currently in review by the Parliament, will include a list of reporting institutions in order to comply with international requirements. The new law will include auditors, lawyers, and high-value dealers, as well as credit institutions. Another proposed amendment to the AML law will make all offenses listed in the criminal law predicate offenses for money laundering. If passed, the new amendments will go into force early in 2004.

The European Union 2001 Report on Latvia's Progress towards Accession to the EU characterized the perceived level of corruption in Latvia as relatively high. This finding has been consistently echoed in Transparency International's Corruption Perceptions Index, which in 2003 assigns Latvia a score of 3.8. ("Highly clean" rates a "10.") Latvia continues to take steps to combat both real and perceived corruption. 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 government of Prime Minister Einars Repse also continued to remove from public office high-ranking officials associated with previous corruption and conflict-of-interest scandals. In April 2002, the Parliament adopted the Law on Prevention of Conflict of Interest of Public Officials; and in May, the Law on Corruption Prevention and Enforcement Bureau was also adopted. Starting April 1, 2003, a new regulation entered into force obligating all state officials to declare their income to the State Revenue Service. The Control Service also has the ability to review this information for any cases suspected of public corruption.

The Control Service, which employs 17 persons, was established under the oversight of the Prosecutor's Office. Additional allocations for financing the Control Service for the year 2004 were made for the purpose of increasing the staff, purchasing technical resources, and enhancing software development. Approximately 30 percent of all reports filed with the Control Service are suspicious transaction reports (STRs); the other 70 percent consist of unusual currency transaction reports (transactions over 40,000 lats, approximately \$75,400). The Control Service received 3,303 reports in 2001, 7,902 reports in 2002, and 14,251 (through November) in 2003. 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 2002, 67 criminal cases were initiated by the Prosecutor's Office, and in 2003, 86 cases were opened.

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 nonbank financial institutions, the Latvian Stock Exchange, and insurance companies. The Lottery and Gambling Supervision Inspection Service (under the Ministry of Finance) supervises the gambling sector, and the currency exchange sector is supervised by the Bank of Latvia. 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. It has advised financial institutions to pay much closer attention to transactions involving the Financial Action Task Force (FATF)-designated list of Non-Cooperative Countries and Territories or NCCTs.

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 undesirable but not suspicious, there is no obligation to file a suspicious transaction report with the Control Service.

Latvia continues to address the issue of offshore investments. Information on offshore company owners had been confidential. A commercial law, effective January 2002, now 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.

Reportedly, 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 gathering of evidence processes need streamlining. Two teams were created to work only on money laundering investigations. One was formed at the Latvian Finance Ministry (the Financial Police), the other at the Latvian Interior Ministry (the Economic Police). The latter has been operational since March 2002. To date, there have been no criminal convictions and no forfeitures of illicit proceeds based on money laundering.

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 (November 14, 2002), as well as to five other international conventions on combating terrorism. Regulations have been adopted regarding the implementation of sanctions imposed by UNSCR 1267 and 1333. Regulations of the Cabinet of Ministers No. 437 "On the Sanction Regime of the United Nations Security Council against the Afghan Islam Emirates in the Republic of Latvia" guides the implementation of the sanctions imposed by the above-referenced UNSCRs. Latvia already had a mechanism for freezing financial resources or other property.

The Law on Credit Institutions has been supplemented with a new provision for suspected terrorist cases. The provision allows for police to obtain information from credit institutions during the operative stage, prior to the initiation of a criminal case. In addition, in July 2003, the government adopted Regulation 387 on Countries and International Organizations that Issue Lists of Persons Suspected of Being Involved with Terrorist Acts, which allows the FIU to order a credit or financial institution to freeze suspected terrorist funds. Latvia, however, still lacks clear legal authority for asset seizures and forfeitures associated with financial crimes. The government has formed, under the leadership of the Control Service, an inter-ministerial working group to propose legislative changes to enable seizures and forfeitures resulting from both criminal and civil proceedings.

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 antiterrorism 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. They have given considerable effort to tracing transactions executed by terrorists or their accomplices. Other practical measures include organizing relevant training courses for personnel in financial institutions, creating a special antiterrorism information network within the financial system, nominating a person to deal with antiterrorism issues at the FIU, and establishing an FIU reporting system and procedures concerning terrorist finances.

Latvia participates in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-money Laundering Measures (MONEYVAL), and, as a member, underwent a mutual evaluation in March 2000 that resulted in many of the aforementioned changes. The second round of evaluations was completed in 2002, and Latvia will account for the results before the MONEYVAL committee in May 2004. 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 has been a member of the Egmont Group since 1999 and has cooperation agreements on information exchange with FIUs in Belgium, Bulgaria, the Czech Republic, Estonia, Finland, Italy, Lithuania, Slovenia, and Poland. In addition, Latvia has signed multilateral agreements with 10 accession countries for automatically exchanging information between the European Union financial intelligence units using FIU.NET.

The GOL should continue to research ways to improve cooperation between Latvian law enforcement agencies at the working level, and strengthen its capacity and record in aggressively prosecuting, and convicting, those involved in financial crimes. 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 regulate its bureaux de change and its gaming industry as well as the offshore companies that it licenses. 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 adequate legal tools are in place to successfully prosecute such cases.

Lebanon

Since the 1950s, Lebanon has been a leading hub for banking activities in the Middle East. In the past decade, the strength of the country's banking sector has increased significantly. As evidence to this strength, deposits have soared and the number of banks has flourished. By the end of 2001, total deposits exceeded \$40 billion and the number of banks—despite numerous mergers and acquisitions—had reached 69, with over 800 branch offices, in a country with an estimated population of about four million. Combined with the tradition of bank secrecy, the extensive use of foreign currency (particularly dollars), the influx of remittances from expatriate workers, and lax enforcement of money laundering laws, this plethora of banks allows for an environment conducive to laundering money from sources that include narcotics, counterfeiting, smuggling, evasion of international sanctions as well as of domestic tax and currency regulations, and other organized criminal activity.

In 2003, Lebanon made significant progress in institutionalizing its anti-money laundering efforts, which culminated in the Financial Action Task Force's (FATF's) removal of Lebanon from the list of noncooperative countries or territories (NCCT) in June 2002. With its removal from the NCCT list, the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) advisory which had instructed all U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Lebanon was also lifted. Lebanon's efforts to meet the FATF's recommendations include criminalizing money laundering, establishing currency-reporting guidelines, and creating a financial intelligence unit (FIU).

In April 2001, Lebanon adopted Law No. 318, which created a framework for the lifting of 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. The provisions of Law No. 318 expand the type of financial institutions subject to the provisions of the Banking Secrecy Law

Money Laundering and Financial Crimes

of 1956, to include institutions such as exchange offices; financial intermediation companies; leasing companies; mutual funds; insurance companies; companies promoting, building, and selling, real estate; and dealers in high-value commodities. In addition, companies engaged in transactions for high-value items (precious metals, antiquities) and real estate are obligated to report suspicious transactions in accordance with Law 318. 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 Central Bank (Banque du Liban). In May 2001, Law 318 was further delineated by Banque du Liban 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. 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. 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.

During 2003, incorporating the FATF recommendations, Lebanon adopted additional measures to strengthen efforts to combat money laundering and terrorism finance. Furthermore, anti-money laundering units were set up in customs and the police. In July 2003, Lebanon joined the Egmont Group of financial intelligence units.

In an effort to more effectively combat money laundering and terrorist financing, Lebanon adopted Law 547 in October 2003, which expanded article one of Law 318, making illicit 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”). The new bill also criminalizes 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 criminalizes counterfeiting of money, credit cards, debit cards, or 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. This article 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.

Since its inception, Lebanon’s SIC has been active in providing support to international case referrals. From January through November 2003, the SIC investigated over 250 cases involving allegations of money laundering and terrorist financing activities. Twenty-eight of these cases were related to terrorist financing, of which five were local terrorism financing cases. Bank secrecy regulations were lifted in 127 instances, and three cases relating to money laundering were transmitted by the Supreme Court state prosecutor to the criminal court for trial. The cases included 22 requests from the United States. SIC circulates to all financial institutions the list of individuals and entities included on the UN 1267 sanctions committee’s consolidated list of entities linked to Usama Bin Ladin, al-Qaida, or the Taliban.

Offshore banking is not permitted in Lebanon. Current legislation stipulates that assets proven by a final court ruling to be related to or proceeding from money laundering will be confiscated. In addition, conveyances used to transport narcotics will be seized. Legitimate businesses established from illegal proceeds after passage of Law 381 are also subject to seizure. The SIC has signed a number of memoranda of understanding with some FIUs concerning anti-money laundering and combating terrorist financing. The SIC closely cooperates with competent U.S. authorities on exchanging records and information within the framework of Law 318. Lebanon has endorsed the Basel Core Principles and is in the process of implementing them. Lebanon is party to the 1988 UN Drug Convention (although it has expressed reservations concerning several sections of the Convention relating to bank secrecy), and in December 2001 it signed the UN Convention against Transnational Organized Crime.

Lebanon has made significant progress in its efforts to develop an effective anti-money laundering and terrorism finance regime. Although there are signs of interagency cooperation, more efficient coordination between SIC and other concerned parties, such as police and customs, could yield significant improvements in investigations or in their initiation. In addition, Lebanon should focus greater attention and resources towards achieving successful prosecution of money laundering offenses. Lebanon should also examine the role of its expatriate community in Africa and Latin American and its role in alternative remittance systems, including the misuse of precious metals and gems. Finally, Lebanon should sign the UN International Convention for the Suppression of the Financing of Terrorism.

Lesotho

Lesotho 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) finished drafting an all-encompassing “Money Laundering and Proceeds of Crime” bill that is expected to be tabled before parliament in 2004.

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 multisectoral 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 has sponsored related training for countries of the region.

Lesotho is a party to the UN International Convention for the Suppression of the Financing of Terrorism, the 1988 UN Drug Convention, and the UN Convention against Transnational Organized Crime. Lesotho recently joined the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the FATF-style regional body.

Lesotho should criminalize money laundering and terrorist financing and should develop a viable anti-money laundering regime.

Liberia

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. During the Liberian civil war, which was declared officially over on

August 11, 2003, diamonds were used on a broad scale to purchase arms and fund the conflict. However, the exploitation and export of Liberia's natural resources, particularly timber and diamonds, has continued. The Liberian government has not 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. Diamond traders, including Eastern Europeans and Lebanese, often 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.

When entering the country, amounts of money that exceed \$10,000 must be declared to customs officers upon entering the country. Cash in excess of \$7,500 must be declared on departure. However, these regulations are not regularly enforced, and widespread corruption exists in Liberia's customs authorities. Money laundering is a criminal offense in Liberia. Since January 2003, there have not been any arrests and/or prosecutions for money laundering or terrorist financing.

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 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 2003, Liberia became a party to the UN International Convention for the Suppression of the Financing of Terrorism.

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 become a participant in the Kimberley Process. Liberia should become a party to the UN Convention against Transnational Organized Crime.

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 17 banks, three nonbank financial companies, and 16 public investment companies, as well as insurance and reinsurance companies. Ninety percent of the market is covered by the three largest banks. 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 the controlling interest 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 owner is 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.

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 applied 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.

Following the Financial Action Task Force's (FATF) 2000 identification of Liechtenstein as noncooperative in international efforts to fight money laundering (NCCT), the U.S. Treasury Department issued an advisory instructing U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Liechtenstein. 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 has made progress in strengthening its anti-money laundering regime and implementing recent reforms. It has put measures into place that implement the improvements cited in the 2nd European Union (EU) Directive. Attorneys have become obligated entities, as have dealers in high-value goods, and the practice of "tipping off" is prohibited. 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.

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. The GOL has also improved its international cooperation provisions in both administrative and judicial matters, and has committed all financial institutions (banks and nonbank intermediaries) to obtain full identification of accounts' beneficial owners. To comply with legislation that froze unidentified accounts on January 1, 2002, trustees and other financial intermediaries identified and filed client profiles with banks for over 45,000 customers, or approximately 97.2 percent of the total unidentified accounts, by December 31, 2001.

The FATF recognized in June 2001 that Liechtenstein had remedied the serious deficiencies in its anti-money laundering regime, and removed Liechtenstein from the FATF NCCT list. Similarly, the U.S. Treasury Department withdrew its advisory against Liechtenstein. On July 24, 2002, the FATF informed the GOL that it would end its monitoring of the country, thus recognizing the measures taken against money laundering.

Liechtenstein's financial intelligence unit (FIU), the Einheit fuer Finanzinformationen (EFFI), became operational in March 2001, and a member of the Egmont Group in June 2001. The EFFI works closely with the prosecutor's office and law enforcement authorities, as well as with a new unit of the National Police that deals with economic and organized crime. 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 FIU's authority. EFFI also has responsibility for analysis and transactions in the countering of terrorism financing.

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 them entirely from the FSA. Currently, supervisory responsibility is split between EFFI and the SSP. The SSP has completed over 80 audits covering over 25,000 banking relationships, and works effectively and closely with the EFFI, 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. The legislation for the new regulatory unit is expected to be in force sometime in 2004, with the actual unit to begin work in 2005.

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.

The reforms to Liechtenstein’s anti-money laundering regime have had positive results. In 2002, EFFI received over 200 STRs, compared with 158 in 2001 and 67 in 2000. Other financial intermediaries, such as attorneys, investment companies, insurance companies, and the postal service, filed 11 of the 264 STRs received in 2002. As in the preceding year, fraud, money laundering, and embezzlement were the most prevalent types of offense. The number of STRs involving fraud increased from 38 percent to 48 percent, while the STRs involving money laundering and embezzlement remained almost stable, at 27.7 percent and 9.9 percent, respectively.

The relatively small number of STRs filed by financial institutions in Liechtenstein has generated several money laundering investigations. 184 STRs were sent to the public prosecutor’s office, which has doubled its staff to better handle the caseload, and three indictments resulted from the investigations. 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, but has established a kind of compromise policy. Most of the customers involved in money laundering activities were from Switzerland, Germany and Italy, although the EFFI reports that \$667 million worth of suspicious money originated from the United States, followed by France and Russia with \$533 million and \$146 million, respectively. On March 21, 2002, the Liechtenstein Ministry of Justice filed a complaint against Gabriel Marxer, a former member of the Liechtenstein Parliament, on the grounds he participated in the laundering of \$6.5 million originating from United States businessman James C. Sexton. United States authorities initiated the investigation as part of a large anti-fraud operation. Police authorities arrested eight people and blocked two bank accounts.

A special unit of eight to ten police, known as EWOK, was established specifically to address money laundering crimes. When authorized to do so by a Special Investigative Judge, the police can use Special Investigative Measures.

In late 2002, the International Monetary Fund (IMF) responded to a GOL invitation to assess its financial sector. The IMF’s assessment was overall a positive one, noting that deficiencies that existed with staffing 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 suggested that legal liability in money laundering be extended to legal entities, and

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. Article 235A provides for the sharing of confiscated assets; this has been used in practice. Liechtenstein has issued ordinances to implement UNSCR 1267 and UNSCR 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 UNSCR resolutions. 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 to date (December 2003) by the Liechtenstein authorities based on UNSCR 1267 is \$145,300 (SFr 182'000). According to the 2003 Liechtenstein Terrorism Report to the UN, six Taliban-related entities have been located in Liechtenstein. Their assets have been frozen and overlap with the \$145,300 already reported above.

Liechtenstein is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. On July 9, 2003, Liechtenstein deposited the instrument of ratification of the UN International Convention for the Suppression of the Financing of Terrorism. The Convention was later enforced on August 8, 2003. Liechtenstein has now ratified all twelve relevant international conventions and protocols. The implementation of the Convention required a series of amendments to Liechtenstein law, which were adopted by Parliament on May 15, 2003. The legal package includes 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. Final implementing regulations are expected to be finalized in early 2004. 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.

A Mutual Legal Assistance Treaty (MLAT) between Liechtenstein and the United States entered into force on August 1, 2003. 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 has made consistent progress in addressing previously noted shortcomings in its anti-money laundering regime. The GOL should continue to build upon the foundation of its evolving anti-money laundering/antiterrorist financing regime. The GOL 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, as well as be obliged to report attempted transactions. EFFI 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 GOL should distinguish between bona fide third parties and others.

Lithuania

Lithuania is not a regional financial center. However, its geographic location and limited experience in regulating financial institutions and transactions makes it attractive for money launderers. Although

some money laundering is related to narcotics proceeds, most is tied to tax evasion, smuggling, illegal production and sale of alcohol, capital flight, and profit concealment. It is estimated that the shadow economy accounts for some 20 percent of the total economy. There is a significant cross-border flow of money from neighboring countries and from China, often en route to offshore accounts and companies. Large-scale laundering via commercial banks carries significant risk, but money laundering outside the banking system is widespread due to loopholes in the tax system, corruption, and the prevalence of alternative remittance systems.

Lithuania criminalized the act of money laundering in 1997 with the Law on the Prevention of Money Laundering (LPML), which entered into force in 1998. The LPML requires all financial institutions (credit institutions, brokerage enterprises and leasing companies) to report suspicious or unusual transactions and to identify customers whose transactions exceed 50,000 litas (approximately \$17,500). The LPML also includes provisions for maintaining a register of customers who engage in transactions that exceed 50,000 litas, and the retention of certain documents for a minimum of ten years. Individuals must declare to Customs cash they transport into or out of the country in excess of LTL 10,000 (\$3,677).

During 2003 Lithuania took significant steps to construct a more effective anti-money laundering regime. 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 European Union's Second Money Laundering Directive and Convention against Financing of International Terrorism as well as the FATF Forty Recommendations.

The LPML Amendment extends to additional financial institutions, including post offices, lawyers, high value goods dealers, notaries and insurance companies, the requirement to report suspicious or unusual activity. It also expands the list of professions that have to implement preventive measures against money laundering to include auditors, accountants, tax advisors, enterprises providing bookkeeping or tax consultation services, lawyers and their assistants, 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 LPML Amendment also mandates a stricter customer identification policy for insurance companies and casinos.

The Central Bank of Lithuania (BOL) issues currency transaction reporting requirements and regulations and is required to share money laundering violation information with law enforcement and other state institutions upon request. Credit institutions (banks) are all privately owned and also function as bureaux de change. They must be licensed by the 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. Nonbank financial institutions operate under guidelines similar to banks. Insurance and brokerage companies are under supervision by the Insurance and Brokerage Commission, which can execute administrative measures or revoke the company's license.

The LPML specifies that suspicious and unusual transactions are to be reported to the Financial Crimes Investigation Service (FCIS) located in the Ministry of the Interior (formerly the Tax Police Department). The Money Laundering Prevention Division (MLPD) of the FCIS is Lithuania's financial intelligence unit. The FCIS has 460 people assigned to ten regional units and one special unit. One hundred fifty of the 460 people are police officers and 220 people are County Auditors (for financial crimes and tax crimes) and other financial experts. From January 1998 to June 2003, the MLPD sent a total of 730 cases (200 in 2002, from approximately 90 percent of the banks) to the regional units for investigation. Sixty-two criminal cases (of which 14 were initiated in 2002) were opened based on the financial reports, and 15 of the cases were investigated for money laundering violations. Investigators initiated four pretrial investigations into money laundering in 2003.

In addition to suspicious transaction reports (STRs), the MLPD receives currency transaction reports (CTRs) for currency exchanges over 20,000 litas (approximately \$7,000). There were 83 STRs filed with the MLPD in 2001, 156 STRs and 43,164 CTRs in 2002, and 153 STRs and 30,508 CTRs for the period January 1 through October 31, 2003. There are a total of approximately 70,000 CTRs and 480 STRs on file with the MLPD.

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. Under the new procedure code, the role of prosecutors increases. Under the previous code the police could freeze/seize assets, but now they must first go to the prosecutors with the named property and ask for 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. The LPML Amendment gives the FCIS the right to order reporting institutions to suspend a money transaction for 48 hours if suspicion arises that it may be related to money laundering or terrorist financing, while a preliminary investigation or analysis is conducted. The reporting institutions are obligated to refrain from carrying out money transactions if they know or suspect they may be related to money laundering, until they notify the FCIS. The FCIS froze over LTL 52 million (\$19.1 million) in assets in 2003, up from LTL 35.1 million (\$12.9 million) the previous year (In 2003, the Court did not order the forfeiture of drug-related assets. There are no figures available for the total value of forfeited crime-related assets.) The police state that they lack resources to perform seizures of property. Lithuania does not share crime-related assets with other governments.

Article 250 of the Lithuanian Criminal Code criminalizes terrorist financing. Lithuania also introduced the concept of terrorist financing in the LPML Amendment that includes a short definition of terrorist financing and preventive measures. The preventive measures obligate the reporting institutions to notify the FCIS immediately about money transactions (both cash and noncash) 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.

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 pertains to the prevention of terrorism. It states that if data identifying the customer of a credit institution, 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 lists produced by the respective authorities of foreign countries and international organizations, such person is to be considered suspicious, and treated accordingly. The State Security Department and the FCIS circulated to financial institutions the names of all terrorist individuals and entities on the UN 1267 Sanctions Committee’s consolidated asset freeze list and/or whom the USG has designated and whose assets it has frozen. 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 financial intelligence units of Belgium, Croatia, the Czech Republic, Estonia, Finland, Latvia, Bulgaria, Slovenia and Poland. The Lithuanian Tax Police Department, in charge of investigations of financial crimes, also has cooperation agreements with law enforcement agencies of Belarus, Georgia, Kazakhstan, Russia, and Ukraine. In May 2002, the Lithuanian parliament ratified an agreement with Germany on cooperation in work against organized crime, terrorism, and other serious crimes. There is a mutual legal assistance treaty (MLAT) between the United States and Lithuania, which entered into force in 1999. Lithuania voluntarily exchanges with the U.S. information regarding on-site examinations of banks and trust companies. The FCIS joined the Egmont Group’s Secure Web (ESW) in December 2003.

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). The MLPD is a member of the Egmont Group.

Lithuania should continue its efforts to enhance its anti-money laundering/antiterrorist financing regime. In particular, Lithuania should ensure 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 nongovernmental organizations, including charities, are adequately supervised and regulated to prevent their abuse by criminal or terrorist groups.

Luxembourg

Despite its standing as the smallest member of the European Union (EU), Luxembourg is the seventh-largest financial center in the world, with more than 175 international financial institutions that benefit from the country's strict bank secrecy laws and operate a wide range of services and activities. Luxembourg is currently the third largest domicile for investment funds (behind the United States and France), with over \$950 billion in net assets managed by the investment fund industry. Luxembourg is considered an offshore financial center. Foreign-owned banks account for around 94 percent of total bank assets, the majority of which are subsidiaries of German, French and Belgian banks. For this reason, and given these countries' proximity to Luxembourg, a significant share of suspicious transaction reports in Luxembourg are generated from transactions involving clients in these countries. Luxembourg currently has no cross-border currency reporting requirements.

As of December 2003, 180 banks were operating. As of September 2003, Luxembourg had 1,912 "undertakings for collective investment" (UCIs), or mutual fund companies, and about 900 investment companies. There were 13,819 holding companies, 95 insurance companies and 264 reinsurance companies. The Luxembourg stock exchange has over 23,000 international securities listed. The size and sophistication of Luxembourg's financial center create opportunities for money laundering. Although Luxembourg 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.

Luxembourg has a well-developed legal and regulatory system to combat money laundering, and financial sector laws are modeled to a large extent after EU directives. The Law of 7 July 1989, updated in 1998, serves as Luxembourg's primary anti-money laundering law, criminalizing the laundering of proceeds for an extensive list of predicate offenses. The Law of 5 April 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, 91/308/EEC), and includes customer identification, record keeping and suspicious transaction reporting requirements. The Act of 1 August 1998 extends anti-money laundering provisions to notaries, casinos and external auditors; and adds corruption, weapons offenses and organized crime to the list of predicate offenses for money laundering. Among other things, the Act of 10 June 1999 extends anti-money laundering provisions to accountants.

In July 2003, Luxembourg's parliament passed a multifaceted antiterrorism financing law known as *Projet de Loi 4954*, designed to strengthen Luxembourg's ability to fight terrorism and the financing of it. Aside from ratifying the UN International Convention for the Suppression of the Financing of Terrorism, the law defined terrorist acts, terrorist organizations, and terrorism financing in the Luxembourg Criminal Code for the first time. 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.

Luxembourg is presently in the domestic implementation phase of the EU's Second Anti-Money Laundering Directive (2001/97/EC). In May 2003, a draft bill, *Projet de Loi 5165*, which implements that directive, was submitted for consideration. Although Luxembourg's laws were written mainly to harmonize with the Directive, the draft bill went beyond the Directive by extending the list of covered entities to include legal services providers, certain real estate professionals, high-value goods dealers and insurance companies; and by lowering the value of transactions subject to anti-money laundering rules to 10,000 euros from the EU requirement of 15,000 euros. Government of Luxembourg (GOL) officials believe that the law will be passed by June 2004.

The Cellule de Renseignement Financier FIU-LUX (formerly known as Parquet Economique et Financier Luxembourg/Service Anti-Blanchiment) serves as Luxembourg's financial intelligence unit (FIU), receiving and analyzing STRs from the financial sector. The Commission de Surveillance du Secteur Financier (CSSF) is an independent government body that serves as the oversight authority for banks and the securities market, and supervises professionals covered by the country's anti-money laundering laws. The Commissariat aux Assurances (CAA) has oversight authority over the insurance sector, and the Luxembourg Central Bank oversees the payment and securities settlement system. 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.

The GOL is actively engaged in efforts to combat money laundering and to further develop its effectiveness in this area. Under the direction of the Ministry of the Treasury, the CSSF has established a public-private committee comprising supervisory authorities, law enforcement authorities, the FIU, and representatives of financial professions and other professions within the scope of EU and Luxembourg anti-money laundering rules. The committee, the *Comite de Pilotage Anti-Blanchiment (COPILAB)* meets monthly to develop a common approach to strengthen Luxembourg's anti-money laundering regime.

No distinctions are made in Luxembourg 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 government registry publicly lists company directors, and 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 a EU recommendation on quality control for external audit work to assure the adherence to international standards on auditing.

Suspicious transaction reporting requirements apply not only to banks, but also to auditors, accountants, notaries, and life insurance providers. Financial institutions are required to retain records for a period of five years. Individuals aiding government officials in money laundering investigations are protected by law. As of mid-December 2003, there were 804 STRs filed (up from 631 in 2002 and 431 in 2001). There are currently two major ongoing money laundering investigations, which have led to one arrest to date. There is a consistently high level of cooperation between U.S. and Luxembourg law enforcement authorities on money laundering investigations.

Since September 11, 2001, Luxembourg has committed itself to fighting the financing of terrorism. 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. Dialogue and other bilateral proceedings between the GOL and the United States have been particularly extensive. The GOL also

has actively disseminated information concerning suspected terrorists throughout its institutions in an effort to identify and freeze the assets of these individuals.

Upon request from the United States, Luxembourg froze the bank accounts of individuals suspected of involvement in terrorism. Luxembourg also froze eighteen accounts on its own. Five court challenges have been filed thus far by the account holders. During 2002, over \$200 million in suspect accounts were frozen by Luxembourg authorities pending further investigations (most of which were not fruitful, and the assets were then released). 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 anti-money laundering rules would apply to such systems, and no separate legislative initiatives are currently being considered to address them.

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 on the Suppression of the Financing of Terrorism. Luxembourg laws facilitating international cooperation in money laundering include the Act of 8 August 2000, which enhanced and simplified procedures on international judicial cooperation in criminal matters, and the Law of 14 June 2001, which ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. Luxembourg has a definitive system not only for the seizure and forfeiture of criminal assets, but also for the sharing of those assets with other governments.

Luxembourg is a member of the European Union, the Financial Action Task Force (FATF), and the Organization for Economic Cooperation and Development (OECD). 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 the Ukraine. The ATTF budget has grown steadily from approximately 700,000 euros in 2000, to nearly 2 million euros in 2003.

Luxembourg has enacted laws and adopted practices that help to prevent the abuse of its bank secrecy laws. The GOL should continue to strengthen enforcement to prevent international criminals from abusing Luxembourg's financial sector and should continue its active participation in international fora. The GOL should give serious consideration to 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.

The IMF conducted a financial sector assessment of Macau, and the results published in August 2002 stated that Macau was "materially noncompliant" with the money laundering principles of the Basel

Committee's "Core Principles for Effective Banking Supervision." The assessment concluded that an anti-money laundering legal framework was in place in Macau, but recommended improvements in implementation and enforcement.

Since the IMF's assessment, Macau has taken several steps to try 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 undertake subsequent investigations. In 2003, the Macau Special Administrative Region Government (MSARG) also prepared an administrative regulation establishing a financial intelligence unit. The FIU will be set up pending passage of the legislation. An interagency body consisting of representatives from the Monetary Authority of Macau, Macau Customs Service, Judicial Police, and other economic and law-enforcement agencies has been working on issues related to the FIU since 2002, according to Macau officials. The government also drafted new money laundering and terrorist financing bills which, 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 in the regulation and supervision of onshore versus offshore financial activities.

The gaming sector and related tourism are critical parts of Macau's economy. Taxes from gaming comprised 63 percent of government revenue in 2002, while tourism and gaming combined accounted for 40 percent of GDP in 2001. The MSARG ended a long-standing gaming monopoly early in 2002 when it awarded concessions to two additional operators. These two firms have yet to begin gaming operations. 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 cater to clients seeking anonymity within Macau's gambling establishments and are particularly removed from official scrutiny. As a result, the gaming industry, in particular, provides an avenue for the laundering of illicit funds.

The Macau Inspectorate of Gaming has not played an active role in preventing money laundering in the casinos. The casinos have not filed any suspicious transaction reports. The MSARG is drafting regulations designed to prevent money laundering in the gambling industry as part of the restructuring of that sector. The legislation aims to make money laundering by casinos more difficult, improve oversight, and tighten reporting requirements. A separate proposed measure governs the granting of credit by casinos, which would make it harder for criminal organizations to penetrate the casinos.

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 record searches for terrorist assets, using U.S. Executive Order 13224 and United Nations lists. No assets have been found to date.

The Macau legislature passed an antiterrorism law in April 2002 that increases Macau's compliance with UNSCR 1373. The legislation criminalizes violations of UN Security Council resolutions, including antiterrorist resolutions, and strengthens antiterrorist financing provisions. The UN International Convention for the Suppression of the Financing of Terrorism will apply to Macau when the People's Republic of China accedes to it.

In 2003, the MSARG drafted a new counterterrorism bill aimed at strengthening antiterrorist financing measures. As of December 2003, 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 UN lists, and permitting assets to be frozen without first obtaining a court order. Additional proposed legislation would 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. From October 1, 2002, to September 30, 2003, 107 STRs were received by Macau's Judiciary Police from individuals, banks, insurance companies and government agencies. That represents a substantial increase over the 55 reports filed from January to November, 2002. In prior years, only a handful of reports were filed each year.

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 nonbanking sector—such as real estate—and penalties for entities that fail to report suspicious transactions. 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.

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.

The United States has no law enforcement cooperation agreements with Macau, though international cooperation can be requested on the basis of international conventions in force in Macau. 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 Asia Pacific Group on money laundering, 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 the People's Republic of China's ratification.

Macau has taken a number of steps in the past three years to create an effective anti-money laundering regime. Macau is urged to implement and enforce existing laws and regulations. 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 also consider measures that provide for cross-border bulk currency and threshold reporting. 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 heavily cash-based because of the population's distrust of the banking, financial, and tax systems. Money laundering in Macedonia is most likely connected to financial crimes such as tax evasion, smuggling, financial and privatization fraud, bribery, and corruption. A small portion of money laundering is believed to be connected to narcotics trafficking.

Article 273 of Macedonia's criminal code, which came into force in 1996, criminalizes money laundering related to all crimes. The legislation specifically identifies narcotics and arms trafficking as predicate offenses, and contains an additional provision that covers funds that are acquired from other punishable actions. In November 2001, Parliament passed the Law on Money Laundering Prevention (LMLP), which explicitly defines money laundering for the first time in Macedonian legislation. The LMLP, which went into effect in March 2002, requires financial institutions to know, record, and report the identity of clients that perform cash transactions exceeding 20,000 euros, to prepare programs to protect themselves against money laundering, and to report suspicious transactions. Reporting entities are protected by law in their cooperation with enforcement authorities. The LMLP provides penalties for individuals and entities which do not comply. Banks and other financial institutions are required to maintain records necessary to trace and/or reconstruct significant transactions for up to 5 years. The Customs administration is required to register and report the cross-border transport of currency or monetary instruments exceeding 10,000 euros.

A new draft anti-money laundering law passed the Parliament on September 10, 2003. This new law will improve the original Law on Money Laundering Prevention by strengthening the Anti-Money Laundering Directorate, by putting into place more preventive measures, and by harmonizing Macedonia's anti-money laundering regime with the European Union (EU) directives as well as all international standards including the FATF Special Recommendations. The amendments to the LMLP that just underwent the first reading in the Parliament envision a decrease of the limit for the obligatory reporting from 20,000 to 15,000 and obligatory electronic payments through banks or other financial institutions of amounts larger than 15,000.)

Nonbank financial institutions such as exchange offices and nonbank money transfer agents are poorly supervised and audited. However, the Law on Money Transfer by entities other than banks was passed in December 2003 defining the rules of licensing, operating and supervising money transfer agents.

Money Laundering and Financial Crimes

The LMLP establishes the Directorate for Money Laundering Prevention within the Ministry of Finance. The Directorate collects, processes, analyzes, and stores data received from financial institutions and other government agencies. Reporting entities are legally protected in their cooperation with law enforcement entities. The Directorate has the authority to submit collected information to the police and the judiciary. In its first twenty months of existence, the Directorate received nearly 30,000 reports, most from banks, 65 of which were investigated further; six of these were sent to the prosecutor's office. Four of these cases were dropped and the other two were turned into tax evasion cases. So far, there have been no prosecutions or convictions for money laundering or terrorism financing. The Directorate had planned to join the Egmont Group in July 2003, but membership was postponed because of ambivalence regarding the future status of the Directorate. In mid-2003, the GOM planned to fold the Directorate into the Financial Police organization; however, in November 2003, the government decided to leave the Directorate as an independent body.

In June 2002, parliament passed a Law establishing a Financial Police Unit, situated within the Ministry of Finance. The unit was slated to become operational in fall 2003, but still lacks a director, which is considered as an obstacle for the unit to become fully operational. The unit will investigate money laundering and suspicious transactions reported to the Directorate as well as other potential financial crimes such as tax evasion, corruption and organized crime. Since Macedonia has no bank secrecy laws, supervisory authorities have full access to all bank records. Although not completely staffed, the unit has received some preliminary training on money laundering, with more advanced training planned before it becomes operational.

Terrorism financing would become a new crime after the adoption of amendments to the Criminal Code, expected in 2004. The National Bank and Ministry of Finance circulate the lists of entities involved in terrorist financing that they receive from the Embassy to financial institutions. The authorities are allowed to identify named accounts, but require court orders before they can freeze assets with suspected links to money laundering or terrorist financing. The Government of Macedonia (GOM) has proposed amendments to the LMLP that will allow financial institutions to temporarily freeze assets of suspected money launderers and terrorist financiers.

An amendment to Article 17 of Macedonia's Constitution allowing for the use of what are known as "special investigative procedures," was finally adopted on December 26, 2003. Macedonia is also working to amend the Law on Criminal Procedure and Criminal Code to implement the new amendment. Together, all the legislative reforms should strengthen the GOM's efforts to combat organized crime, corruption, money laundering, terrorism, and other related crimes by increasing penalties; tightening definitions; providing for effective asset freezing, seizure, and forfeiture; and defining authority more clearly. The changes should also harmonize the LMLP with European Commission and MONEYVAL recommendations as well as the EU Conventions.

Macedonia agreed to be evaluated in the pilot of the World Bank's Financial Sector Assessment Program (FSAP), and the FSAP was conducted in April 2003. Preliminary findings indicate that Macedonia has made much progress, and that the government has set anti-money laundering as a high priority. The evaluation also identifies needs, which include various compliance audits.

The GOM has concluded Police Cooperation Agreements with almost all of the countries from the region (Albania, Bulgaria, Croatia, Romania, Slovenia, Austria, Turkey, Greece, Russian Federation, Ukraine, Egypt) and has mutual legal assistance agreements with many countries. Exchange of police information is regularly provided through Interpol channels. The GOM 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. Although the framework to support the measure has not become effective yet, Macedonia has agreed to accept valid U.S. civil legal judgments. The GOM has concluded bilateral police agreements for exchanging information on money laundering

with Bulgaria, Croatia, Slovenia, France, Romania, Greece, Russia and Italy and is a signatory to the Council of Europe's Convention on Suppression of Laundering Criminal Proceeds.

Macedonia is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and in October 1999 and October 2002 underwent mutual evaluations by the group. Macedonia 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. The GOM has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

The GOM should work to pass the pending legislation to tighten its anti-money laundering and counterterrorism financing regime, and the amendments to the criminal legislation to implement the Constitutional amendment allowing the use of special investigative procedures and authorizing financial institutions to freeze assets on a temporary basis. The GOM should mandate the supervision of wire transfers for nonbank financial institutions. The GOM should take steps to assist the Financial Police Unit with its operating requirements and improve interagency cooperation to develop a viable anti-money laundering regime. The GOM should explicitly criminalize the support and financing of terrorists and terrorist organizations.

Madagascar

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

Madagascar's 1997 anti-money laundering law criminalizes money laundering related to narcotics trafficking; however, far broader money laundering legislation was recently introduced by an inter-ministerial working group. The draft legislation addresses money laundering, seizures, confiscation, and international cooperation in dealing with the proceeds of crime. The legislation was approved by the cabinet and should be considered by the May 2004 legislative session. 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 draft legislation defines prohibited activities and covered actors very broadly. There are broad definitions of "money laundering", "proceeds of crime", and "assets". The provisions apply to physical persons and legal entities involved in operations involving 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 draft would also require 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 draft law would authorize the establishment of a financial intelligence service, which would serve as a clearinghouse for customer information and liaison with judicial authorities. The Government of Madagascar seeks to provide for the freezing and seizure of assets, punishment of fines and imprisonment for money laundering and other infractions. The GOM currently distributes lists of individuals and organizations linked to terrorism finance throughout the banking system.

No arrests or prosecutions for money laundering or terrorist financing were presented during calendar year 2003.

Madagascar is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime, which entered into force in September 2003. Madagascar is a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Madagascar should join the Eastern and Southern African Anti-Money Laundering Group and enact a comprehensive anti-money laundering regime that criminalizes terrorist financing and money laundering for all serious crimes.

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.

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.

Malawi should take steps to strengthen its anti-money laundering and counterterrorist financing regimes as it has agreed to do as a member of ESAAMLG. Malawi should become a party to the UN Convention against Transnational Organized Crime.

Malaysia

Malaysia has made a strong effort to combat money laundering and terrorist financial flows. Malaysia not a major regional center for money laundering, but does offer a variety of financial services in both its domestic and offshore sectors that could be misused by those intent on laundering money or supporting terrorism.

Malaysia's Anti-Money Laundering Act 2001 (AMLA) was enacted in January 2002. The AMLA criminalizes money laundering and lifts bank secrecy provisions for criminal investigations involving

approximately 150 predicate offenses. The law also created a financial intelligence unit (FIU) located in the Central Bank, Bank Negara Malaysia (BNM). The FIU, now operational, is tasked with receiving and analyzing information, and sharing financial intelligence with the appropriate enforcement agencies for further investigations. The Malaysian FIU works with at least 12 other agencies to identify and investigate suspicious transactions. Malaysia's longstanding National Coordination Committee to Counter Money Laundering (NCC) is composed of members from 13 government agencies. The NCC oversaw the drafting of the anti-money laundering law and coordinates government-wide anti-money laundering efforts.

All reporting institutions are subject to the same review by the FIU and enforcement agencies, and must file suspicious transaction reports under the AMLA. Reporting institutions include: commercial banks, merchant banks, finance companies, Islamic banks, money changers, discount houses, insurance brokers, Islamic insurance (Takaful) operators, offshore banks, offshore insurers, offshore trusts, the Pilgrims Fund, Malaysia's Postal Service, development banks such as Malaysia's National Savings Bank, the People's Cooperation Bank, and licensed casinos. Money laundering controls have not been extended to some nonbanking financial institutions, including exchange houses and stock brokerages or to intermediaries such as lawyers, accountants, and brokers.

The securities commission has established a working committee charged with implementing the requirements of the anti-money laundering act for entities falling within its supervision. Bank Negara's financial intelligence unit is working with the Malaysian Bar Council and the Malaysian Institute of Accountants to help them in drafting reporting obligations within the scope of their own code of ethics/fiduciary duties.

The Government of Malaysia (GOM) has a well-developed regulatory framework, including licensing and background checks, to oversee onshore financial institutions. BNM 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. The actual examination coverage of anti-money laundering efforts is still in development for all segments. Currently, there are 300 examiners who are responsible for money laundering inspections for both onshore and offshore banks. A comprehensive supervisory framework has been implemented to audit financial institutions' compliance with AMLA.

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, where information on the amount and purpose of the transaction is recorded by the bank concerned.

Malaysia has a substantial offshore sector located in the east Malaysian region of Labuan. The Offshore Financial Services Authority (LOFSA), which is under the authority of the Central Bank, Bank Negara. The offshore sector has different regulations for the establishment and operation of offshore businesses. However, the offshore sector is governed by the same anti-money laundering laws as those governing domestic financial services providers. 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 and insurance companies and performs stringent background checks before granting an offshore banking 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 or insurance companies. Most observers believe that the regulatory authority exercises adequate control of the banking and insurance groups active in Labuan.

Labuan has over 4000 registered offshore companies. All offshore companies must be established through a trust company. Offshore companies are not required to reveal their beneficial owners to the supervisory authority. Instead trust companies are charged by law with establishing the true beneficial owners and submitting suspicious transaction reports, as necessary. Bearer instruments are prohibited in Labuan, but there is also no requirement to reveal the true identity of the beneficial owner of international corporations. If queried by the supervisory authority, LOFSA, all financial service providers must disclose information on the beneficial owner of accounts and directors of organizations operating in Labuan. Malaysia bans offshore casinos and Internet gaming sites.

In November 2003, the AMLA was amended to include the financing of terrorism as one of the predicate offenses covered under the Act. Once the amendments come into force, the AMLA will be renamed “The Anti-Money Laundering and Anti-Terrorist Financing Act”. As of the end of 2003, the government has not yet prosecuted a money launder case, but government officials report that several cases are in the investigative stages. Additionally, the GOM has the authority to identify, freeze, and seize terrorist- or terrorism-related assets. Malaysia 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.

Malaysia forbids illegal deposit taking, unlawful compensation deals, illegal remittance or transfer, and money laundering, which provides the legal groundwork to deal with alternative remittance systems, such as hawala, black market exchanges and trade-based money laundering. However, Malaysia faces a challenge in regulating alternative remittance systems that are, by their nature, unofficial and unrecorded. The Registrar of Societies regulates nongovernment organizations. The registrar has put in place a monitoring mechanism, whereby it is mandatory for every registered society of a charitable nature to submit to the Registrar the annual returns, which includes the audited financial statements.

In conjunction with Malaysia’s anti-money laundering unit within the Central Bank, the Ministry of Foreign Affairs opened the Southeast Asian Region Centre for Counter Terrorism (SEARCCT) in August 2003. Malaysia allows foreign countries to check the operations of their banks’ branches. Malaysia has cooperated closely with U.S. law enforcement in investigating terrorist, counternarcotics, and other cases. The financial intelligence unit has signed memoranda of understanding with the Australian FIU AUSTRAC, while MOUs with South Korea and the United States are pending. In April 2002, the GOM passed the Mutual Assistance in Criminal Matters Bill 2002. The GOM signed a joint declaration to combat international terrorism with the United States in May 2002.

Malaysia has signed, but not yet ratified, the UN Convention against Transnational Organized Crime, which came into force in September 2003. The GOM has not signed the UN International Convention for the Suppression of the Financing of Terrorism. Malaysia is a party to the 1988 UN Drug Convention. 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. The financial intelligence unit in Bank Negara Malaysia has been admitted as a member of the Egmont Group of Financial Intelligence Units at its Plenary meeting in July 2003. Appropriate antiterrorist legislative provisions were passed by the GOM in November 2003, which enables Malaysia to accede to the UN Convention for the Suppression of the Financing of Terrorism. The amendments criminalize terrorist acts, and enable freezing, seizing, and forfeiture of terrorist properties. These amendments will come into force on a date to be appointed by the Minister, after royal assent.

The GOM has made important strides towards the fight against money laundering and terrorist financing. The GOM should continue to issue and implement all regulations, as required in the AMLA, and issue standardized requirements that are applied consistently to all financial institutions, bank and nonbank, supervised by Bank Negara Malaysia. For all entities such as trust companies and

IBCs, Malaysia should insist on “fit and proper tests” for all management, and identification of all beneficial owners. The GOM should also insist on the registration of trusts and of the beneficial owners of the 4000 IBCs 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. The Government of Malaysia should also become a party to the UN Convention against Transnational Organized Crime and to the UN International Convention for the Suppression of the Financing of Terrorism.

The Maldives

The Maldives is not considered an important regional financial center. The financial sector of the Maldives is very narrowly based 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. MMA has authority to supervise the banking system through the Maldives Monetary Authority Act. These laws and regulations provide the MMA 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 narcotics. The law also prohibits laundering of proceeds from 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 also empowers judicial authorities to freeze accounts pending a court decision.

As of 2002, the Government of Maldives (GOM) was considering draft money laundering legislation and the establishment of a Financial Intelligence Unit. However, there is no recent reporting on the progress of the Maldives’ anti-money laundering program.

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 any such terrorist activity is unlawful. The MMA has issued “know your customer” directives and other instructions to banks enforcing freeze 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 instructions 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.

The Maldives should enact comprehensive anti-money laundering and antiterrorist financing legislation that adheres to world standards. The GOM should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Mali

Mali is not a regional financial center nor is money laundering considered to be a problem.

Mali has participated in the past in regional seminars and conferences on combating money laundering and promoting law enforcement cooperation against drug trafficking, terrorism, and money laundering. Mali has drafted a new banking law with International and European standards that is

expected to be ratified by the Malian National Assembly in early 2004. The new banking law will also regulate the transfer of currency. Terrorism and terrorist financing are considered serious crimes in Mali. Malian law has the authority to identify, freeze, and seize terrorist finance-related assets. All proceeds from seized assets remain with the Government of Mali.

Money laundering controls are also applied to nonbanking financial institutions, such as exchange houses, stock brokerages, casinos, insurance companies, as well as intermediaries such as lawyers, accountants, and broker/dealers. There have been no known arrests or prosecutions for money laundering or terrorist financing in Mali since January 1, 2003.

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

Mali should enact comprehensive anti-money laundering legislation that criminalizes terrorist financing and money laundering for all serious crimes.

Malta

Malta has spent the last decade preparing itself for accession to the European Union (EU). As a result, it has toughened up its regulations to attract European investors, and introduced several laws designed 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. As of December 31, 2003, 101 companies, down from 285 a year before, retain offshore status compared to some 30,000 that do not. Offshore registration of banks and international business corporations (IBCs) was halted in January 1997. The number of IBCs has declined from 417 in 2001 to 120 as of November 2003. Legislation dealing with offshore business will remain in force until 2004; the Government of Malta (GOM) has legislated that offshore businesses must close and has stated that all such entities will be completely closed down by September 2004. 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 last of the offshore banks, Erste Bank, came on-shore in October 2003; presently there are no offshore banks in Malta.

The GOM criminalized money laundering in 1994. Maltese law imposes a maximum fine of approximately \$2.5 million and/or 14 years in prison for those convicted. Also in 1994, the GOM issued the Prevention of Money Laundering Regulations, 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 2nd EU Directive on the Prevention of Money Laundering, and became the national law which expanded anti-money laundering requirements to designated nonfinancial 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. It has recently widened its regulatory scope to encompass banking, insurance, investment services, company compliance, and the stock exchange. MFSA also took over the role of supervisory authority of the banking sector. 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 of information about the directors and other persons involved in the management of the company. Presently there is an initiative, lead by the Financial Intelligence Analysis Unit (FIAU) in

corroboration with the relevant authorities and the industry, 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.

In December 2001, Malta's parliament established the FIAU through an amendment to the Prevention of Money Laundering Act, 1994, to serve as Malta's financial intelligence unit. The unit became fully functional in October 2002. Its board consists of members nominated by the Central Bank of Malta, the MFSA, the Police, and the Attorney General. The FIAU co-ordinates the fight against money laundering, collects information from financial institutions, and liaises with parallel international institutions as well as local investigative authorities (the MFSA and the GOM Police). The GOM requires banks, bureaux de change, stockbrokers, insurance companies, money remittance/transfer services, and other designated nonfinancial businesses and professions to file suspicious transaction reports (STRs) with the FIAU. The FIAU is charged with the financial investigation of STRs and has organized training sessions for Maltese financial practitioners to make them aware of the implications of the 2001 Money Laundering Act. The FIAU is an independent unit and neither the unit nor its board members are subject to the direction or control of any other agency or authority.

STRs are not required to be filed for subjects suspected of negligence; only intentional and willful blindness offenses are penalized in Malta at this time. The marked increase in the number of STRs, up from nine in 1998 to 76 as of the end of 2003, and the expansion of reporting institutions that have submitted these reports indicate Malta's determination to crack down on money laundering. Enforcement should continue to strengthen as the FIAU continues analyzing STRs for referral for police investigation.

Malta has also moved to bolster the prosecutorial opportunities for financial crime investigations. 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. The Attorney General is currently pursuing an investigation into an alleged money laundering case involving an alleged smuggling operation.

In January 2002, 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 Eight Special Recommendations on Terrorist Financing. The review found that Malta was in full compliance with Special Recommendations No. 2 through No. 7. Malta was in partial compliance with Special Recommendation No. 1 (ratification and implementation of UN instruments), because it had signed and ratified the UN Conventions, but had not yet fully implemented UNSCR 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 UN 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, 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 Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (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. Malta has ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the UN Convention against Transnational Organized Crime. Malta ratified the UN International Convention for the Suppression of the Financing of Terrorism in November 2001. Malta has also ratified the Council of Europe European Convention on the Suppression of Terrorism and has amended its criminal code to be in alignment with these conventions.

Malta's recent acceptance by the Organization of Economic Cooperation and Development (OECD) is perhaps the best indicator that Malta is no longer considered a tax haven. Malta should continue to enhance its anti-money laundering regime; in particular, Malta should adopt cross-border currency transportation reporting, 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 \$90.1 million and total deposits of \$76.4 million, with domestic deposits exceeding 50 percent of the gross domestic product. The RMI financial sector consists of three banks, two of which are insured by the Federal Deposit Insurance Corporation, and a government-owned development bank whose primary function is to perform development lending in government-prioritized sectors; and 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 calls for the establishment of the requisite infrastructure for detecting, preventing, and combating money laundering and terrorist financing.

In June 2000, the Financial Action Task Force (FATF) placed the Marshall Islands on the list of noncooperative countries and territories (NCCT) in the fight against money laundering. The designation was based on RMI's lack of basic anti-money laundering regulations (including the criminalization of money laundering), of customer identification requirements, and of a suspicious transaction reporting system. Additionally, the RMI had registered about 4,000 international business corporations. The relevant information regarding the beneficial owners of these IBCs was guarded by secrecy provisions in its law, and consequently this information was not accessible to financial institutions, international regulatory bodies, or law enforcement agencies.

Over the past two years, the Marshall Islands enacted significant legislative reforms to address the major deficiencies identified by the FATF. Money laundering was criminalized and customer identification and suspicious transaction reporting were 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 an FIU, resulted in its removal from the FATF's NCCT 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 have been streamlined and automated to the fullest extent possible, given the limited resources available to the DFIU.

Standard operating procedures have been established and documented to systematize the FIU process. An electronic database that is Excel-based has been created, and all disclosures from the financial industry are recorded and analyzed electronically. File links have also been created in this database to support a separate worksheet dedicated to supervisory and regulatory measures. Financial institutions and cash dealers continue to file Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) with the DFIU. For 2003, a total of 2,706 CTRs and five SARs were filed with the DFIU. These filings have led to three investigation cases for potential money laundering, all of which are still on going.

In May 2002, the RMI 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.

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 Government of the GRMI has undertaken a number of initiatives to further strengthen its anti-money laundering/counterterrorist financing regime.

The Banking Commission has issued two sets of advisories on suspicious transaction reporting and currency transaction reporting. The advisories are accompanied by reporting forms and instructions that are similar to those used in the United States. Guidelines on customer due diligence and record keeping have also been issued to the industry, as a supplement to the advisories.

In September 2002, amendments were made to the anti-money laundering legislation. The first amendment was to remove the \$10,000 threshold for transaction record keeping. The original legislation stated that banks only had to keep the records of transactions that were over \$10,000.

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 reportedly 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. 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, with assistance from FDIC in 2002, 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 will 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.

At present, there is no system for reporting cross-border transportation of currency. The GRMI, however, has a draft amendment, which will effectively create such a system. Officials are still deciding whether to incorporate this amendment into the anti-money laundering (AML) legislation or to make it a part of the Customs Act. The RMI's offshore sector comprises largely of a shipping registry and to a lesser extent a corporate registry. The corporate registry program, however, does not allow the registering of offshore banks, offshore insurance firms, and other companies which are financial in nature.

The Marshall Islands is not a signatory to the 1988 UN Drug Convention. As of September 2002, RMI 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 twelve UN Counter-Terrorism, including the International Convention for the Suppression of the Financing of Terrorism, Conventions.

The Marshall Islands is a member of the Asia/Pacific Group on Money Laundering. The DFIU became a member of the Egmont Group of FIUs 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 GRMI continues to strengthen its key defenses against money laundering and terrorist financing, and has commenced work aimed at aligning its AML system with the revised 40 recommendations of the Financial Action Task Force on Money Laundering. These tasks are highlighted in the draft 4th AML Implementation Plan, covering the period from 2004 onward. The RMI remains committed to the international fight against money laundering and terrorist financing. The GRMI should expand the record keeping, reporting, and licensing requirements for all nonbank financial institutions.

Mauritius

Mauritius is a developing financial hub and a major route for foreign investments into the Asian sub-continent. Officials in Mauritius indicate that the majority of money laundering in Mauritius takes the form of schemes to purchase goods in other countries with illegal funds and selling the goods in Mauritius.

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.

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 recognized by and admitted to the Egmont Group of FIUs. Its major challenge continues to be the development of an information technology structure to store SARs, perform complex analyses, and be accessible to other law enforcement entities.

In 2000, the Financial Action Task Force (FATF) conducted a review of Mauritius's anti-money laundering regime against the 25 specified criteria for evaluating noncooperative countries and territories. After conducting the review, the FATF did not designate Mauritius as a noncooperative country. More recently, in August 2003, Mauritius underwent a joint IMF-World Bank Financial Sector Assessment Program (FSAP). The FSAP report noted the GOM progress towards addressing deficiencies developing a comprehensive anti-money laundering program.

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 and regulating, of the nonbank financial sector. All applications to form offshore companies 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 offshore companies.

The Prevention of Terrorism Act of 2002 was promulgated in Mauritius on February 19, 2002. This legislation criminalizes terrorist financing. Finally, the legislation gives the Government of Mauritius 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. Mauritius has signed, but not yet ratified, 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. Mauritius is a member of the Offshore Group of Banking Supervisors.

Mauritius should continue to take a leadership role in regional outreach through the Egmont Group. Mauritius should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and to the UN Convention against Transnational Organized Crime.

Mexico

The illicit drug trade continues to be the principal source of funds laundered through the Mexican financial system. 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.

Remittances from the United States to Mexico are at an all-time high, and are expected to total \$12 billion in 2003. Although nonbank 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*, a consular identification card issued to Mexican citizens residing in the U.S. that has been criticized based on security issues. In some cases, neither the sender nor the recipient of the remittance is required to open a bank account in the U.S. or Mexico, but simply provide the *matricula consular* as identification and pay a flat fee. Although these systems have been designed to make the transfer of money quicker 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. 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. 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*).

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, to the DGAIO. The DGAIO receives 500 suspicious transaction reports (STR) per month, and the volume of cash transaction reports averages \$500,000 per month. 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. Current provisions do not include reporting requirements for offshore banks, casinos, real estate brokerages, attorneys, notaries, and accountants. The DGAIO also receives reports on the cross-border transportation of currency or monetary instruments. 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.

Following analysis of reports on currency transactions, suspicious transactions, and cross-border movements of currency or monetary instruments, the DGAIO sends reports that are deemed to require further investigation to the Office of the Attorney General (PGR). 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 DGAIO works closely with SIEDO in carrying out money laundering investigations. In 2003, SIEDO initiated 59 inquiries and transferred 28 of these to the judiciary for prosecution, issued various arrest warrants that ultimately resulted in 13 convictions with sentences, and seized large quantities of foreign and domestic currency. In addition to working with SIEDO, DGAIO 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 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 UN Security Council Resolution 1373 against Terrorism and the FATF Special Recommendations on Terrorist Financing. 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). In addition, the legislation strengthens “know your client” provisions and requires suspicious transaction reporting by money exchange and remittance businesses. The GOM has responded to USG efforts to identify and block terrorist-related funds, and although no assets were frozen, it continues to monitor suspicious financial transactions.

Mexico has developed a broad network of bilateral agreements with the United States, and regularly meets in bilateral law enforcement working groups with the U.S. The GOM and the United States Government (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. 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 handling assets seized for forfeiture in Mexico if these assets are not clearly linked to narcotics. 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.

In addition to its membership in the FATF, Mexico participates in the Caribbean Financial Action Task Force (CFATF) as a cooperating and supporting nation and in the South American Financial Action Task Force (GAFISUD) 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, which entered into force on July 10, 2003. The GOM also signed the UN Convention Against Corruption on December 9, 2003.

The GOM should improve the mechanisms and implementation for asset forfeiture and money laundering cooperation with the United States, and increase efforts to control the bulk smuggling of currency across its borders. The GOM should also closely monitor remittance systems for possible exploitation by criminal or terrorist groups. The GOM 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, the GOM 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. There has not been any known money laundering schemes related to narcotics proceeds. Financial crimes, such as bank fraud, are rare and do not appear to be increasing in frequency. Misappropriation of public funds has generated illicit proceeds and has led to a number of indictments against politicians and associated businessmen on money laundering grounds. There may be limited financial crimes outside the formal banking sector by cash dealers involved in remittances to the home countries of some foreign workers.

There are three financial institutions in the country: Bank of Guam, Bank of the FSM, and the FSM Development Bank. The Bank of Hawaii closed its FSM branches in November 2002. The Bank of the FSM and the FSM Development Bank are local institutions. The Bank of the FSM is the only non-U.S. bank insured by the Federal Deposit Insurance Corporation (FDIC). The Bank of Guam is also FDIC insured. The FSM Banking Board performs “spot audits” on all the banks.

In December 2000, FSM enacted the Money Laundering and Proceeds of Crime Act (the Act), which went into effect July 1, 2001. The IMF Legal Department conducted a technical review of the law and issued a detailed and favorable report in November 2002. The Act criminalizes money laundering and provides for the freezing and seizure of assets. 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. The FSM Administration plans to submit updated money laundering legislation to Congress in 2004, bringing the statute up to full international standards, strengthening forfeiture rules, expanding reporting requirements by banks and nonbank financial institutions, and establishing a financial investigative unit in the Justice Department.

Legislation aimed at enhancing 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 law sets forth procedures for requesting assistance and responding to requests from other countries.

Legislation to explicitly criminalize terrorist financing is pending. Pending new legislation, the FSM could apply the current money laundering law against terrorist financing if the predicate acts of terrorism constitute a criminal violation. FSM became a party to the UN International Convention for the Suppression of the Financing of Terrorism on September 23, 2002. The FSM Department of Justice has established a protocol 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.

FSM should become a party to the UN Convention against Transnational Organized Crime. FSM should continue to enhance its anti-money laundering regime by criminalizing terrorist financing and adopting and implementing the pending laws and regulations.

Moldova

Moldova is not considered an important regional financial center. Its significance in terms of money laundering is as a transit country, the exact extent of which is unknown. Moldova continues to suffer from severe economic conditions 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. There has been a rise in Internet-related fraud schemes. Although a significant black market exists in Moldova for all manner of goods, narcotics proceeds are not deemed to be a significant funding source. Instances of money laundering have been through the banking system. Organized crime syndicates, from within Moldova and abroad, 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), profits from regional organized crime activities likely account for the majority.

Moldova criminalized money laundering on November 15, 2001, and the law was amended on June 21, 2002. It remained unchanged when the new criminal code was adopted on June 12, 2003. The legislation applies to “all crimes,” not just narcotics activity, with banks and nonbank financial institutions (NBFIs) required to report suspicious transactions to proper GOM authorities. The threshold for suspicious activity at the current exchange rate is any single transaction of \$7,600 for individuals, \$15,200 for wire transfers, and \$22,800 when transferred by a company or firm. Banks must maintain transfer records for a period of five years after an account is opened 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. An amendment dated May 29, 2003 states that forwarding such information to law enforcement or the courts is not a breach of confidentiality as long as it is done in accordance with the regulations.

Only two foreign banks exist in Moldova, Banca Comerciala Romana, a Romanian bank; and Unibank, in which Russian bank Petrocomert holds 100 percent of the shares; both are regulated in the same manner as Moldovan commercial banks. Offshore banks are permitted, so long as they are licensed by the National Bank of Moldova (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 currently licenses five casinos, although they are reportedly not well regulated or controlled. 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 by travelers entering Moldova.

Current legislation contains provisions authorizing sanctions of commercial banks for negligence and, as mentioned above, money laundering legislation applies not only to banks but also to NBFIs and to any person involved in laundering money. While banks were initially resistant towards money laundering legislation, they have since adopted compliance programs as required by the law. Money laundering investigations are difficult, particularly as Moldova remains predominantly a cash society with people having little trust in banks.

Money laundering crimes are the purview of the Center for Combating Economic Crimes and Corruption, while narcotics-related seizures are within the jurisdiction of the Ministry of Interior. The Office of the Prosecutor General has created a Financial Investigations Unit to pursue suspicious transactions. Moldovan authorities report that there are currently 11 criminal investigations underway for money laundering, with two suspects under arrest. Moldova has made no arrests for terrorist financing.

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 and free passage to the State of goods used during or resulting from crimes. The article may be applied to goods belonging to persons who knowingly accepted things acquired illegally, even when prosecution is declined. It remains unclear if asset forfeiture may be invoked against those unwittingly involved or tied to an illegal activity. 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 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; however, current anti-money laundering legislation also covers gold, gems, and precious metals. Investigation into misuse of charitable or nonprofit entities is nonexistent, as the GOM has neither the resources nor ability to perform these tasks.

No agreements, bilateral or otherwise, exist between the U.S. and Moldova relating to the exchange of records in connection with narcotics, terrorism, terrorist financing, or other serious criminal investigation. No negotiations are underway in establishing 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 from 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. Moldova has also signed, but not yet ratified, the UN Convention against Transnational Organized Crime. In addition to these, Moldova has signed an agreement with CIS member states for the exchange of information on criminal matters, including money laundering.

The GOM should continue to enhance and implement its anti-money laundering/antiterrorist financing regime. Moldova should establish a financial intelligence unit to facilitate the sharing of information with foreign governments. The GOM should improve the mechanisms and assure implementation of its asset forfeiture laws and provide appropriate training for officials involved in this program.

Monaco

The Principality of Monaco is considered vulnerable to money laundering, because of its strict bank secrecy laws, network of casinos, and unregulated offshore sector. The principality does not face standard forms of organized crime, and the crimes that exist do 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 “noncooperative” 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 banks’ customers are nonresident. In 2002, the financial sector represented over 17 percent of Monaco’s turnover. Aside from banks, the nonbanking 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. The real estate sector is quite important because of the high prices involved. 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. Monaco therefore uses 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 the Monegasque 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 different 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. 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 was 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 ill-gotten gains 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. Authorities held briefings to explain the new procedures to companies requiring a compliance officer. 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 strengthened the Know Your Client obligations for casinos. Monegasque authorities envisage amending legislation to implement full corporate criminal liability before the middle of 2004.

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 customer and retains client identification information.

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

In 2000, the Financial Action Task Force criticized the anti-money laundering regime of Monaco for the insufficient resources provided to SICCFIN. 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 authorities believe that this is due to a greater awareness of money laundering rather than an increase in money laundering itself. 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 the first eleven months of 2003, SICCFIN received 250 disclosures, 19 of which were referred to the public prosecutors.

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 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.

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 to strengthen the principality’s ability to fight financial crimes, particularly money laundering.

In 2003, SICCFIN signed information exchange agreements with counterpart units in Slovenia and Lebanon, in 2002, with Switzerland, Liechtenstein, and Panama, and in previous years with Luxembourg, France, Spain, Belgium, Portugal, and the United Kingdom. SICCFIN is a member of the Egmont Group of FIUs; in the first eleven months of 2003 it received 75 requests for information or assistance, and responded to every one. 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 is a candidate country to the Council of Europe. Despite its nonmember status, SICCFIN approached the MONEYVAL Committee in 2002 and requested full participation in that Committee, including having an evaluation conducted on its anti-money laundering regime. In October 2002, the evaluation was executed; the evaluators acknowledged the extensive and thorough regime that has been developed.

Monaco is a party to the 1988 UN Drug Convention. In June 2001 it ratified the UN Convention against Transnational Organized Crime. Monaco became a party to the UN International Convention for the Suppression of the Financing of Terrorism in November 2001. In April and August 2002, Monaco promulgated Sovereign Orders to import into domestic law the international obligations it accepted when it ratified that Convention. In May 2002, Monaco acceded to the Council of Europe Convention on the Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. In July and August 2002, Monaco passed Act 1.253 and promulgated two Sovereign Orders, intended to implement UNSCR 1373 of 2001, which outlaw terrorism and its financing.

Monaco’s actions to increase the resources of SICCFIN should increase the efficacy of Monaco’s anti-money laundering regime. Monaco should amend the Criminal Code to include the “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. 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 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.

Mongolia is a party to the 1988 UN Drug Convention. In recent years Mongolia has increased its participation in fora that focus on transnational criminal activities and has observer status in the Asia/Pacific Group on Money Laundering. Mongolia has signed and ratified the UN International Convention for Suppression of the Financing of Terrorism.

Mongolia should pass and implement anti-money laundering and antiterrorist financing legislation.

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.

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. 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. MOUs also have been entered into with overseas regulators to provide a mechanism for collaboration in the supervision of most of the offshore banks.

The Proceeds of Crime Act (POCA), 1999 criminalizes the laundering of proceeds from any indictable offense and provides for freezing and confiscation of the proceeds of crime and international cooperation. 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.

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 Reporting Authority was established in 2002 to serve as Montserrat's financial intelligence unit (FIU); however, it is not yet operational. Under the POCA, the Governor has issued a nonmandatory code of practice establishing further guidance for financial institutions.

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.

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 Caribbean Financial Action Task Force (CFATF) and is subject to the 1988 UN Drug Convention.

Montserrat should issue regulations to implement the POCA and make the full operation of the Reporting Authority a priority. It should enact measures to identify and record the beneficial owners of IBCs and immobilize bearer shares. If it has not already done so, Montserrat should criminalize the financing and support of terrorists or terrorist organizations. Montserrat should 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. There have been reports of money laundering activities within the country related to international arms smuggling. Morocco remains an important producer and exporter of cannabis, with estimated revenues of \$3 billion annually. Some of these proceeds may be laundered in Morocco and abroad. Large numbers of Moroccans have a strong economic dependence on the narcotics trade. 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. 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 launderers. Morocco has offshore banks.

The Moroccan financial sector is modelled 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 the AML, instructing banks and other financial institutions to conduct their own internal analysis/investigations.

Morocco has in effect: (a.) legislation prohibiting anonymous bank accounts; (b.) foreign currency controls that require declarations to be filed when transporting currency across the border, although not strictly enforced; and, (c.) internal bank controls designed to counter money laundering and other illegal/suspicious activities.

In June 2003, Morocco implemented a comprehensive antiterrorism bill that provided the legal basis for the freezing of suspect accounts and prosecution of terrorist finance related crimes. As of January 2004, Morocco is 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 AML bill reportedly includes, among other provisions, a suspicious transaction-reporting scheme and creation of a financial intelligence unit (FIU). The bills are based on the FATF Forty Recommendations 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

Morocco has taken a proactive approach to anti-money laundering and has solicited USG and international technical assistance. 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 should move expeditiously to pass the banking sector reform bill and the proposed anti-money laundering law. 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. Moroccan law enforcement and customs should also focus its efforts on informal remittance systems and various forms of trade-based money laundering.

Mozambique

Mozambique is not a regional financial center. Most money laundering in Mozambique is related to bank fraud and corruption. However, lax oversight and weak banking regulations suggest that Mozambique's financial institutions are vulnerable to money laundering. In particular, there is growing concern that the proceeds of arms-trafficking, stolen vehicles sales, narcotics trafficking, prostitution, and contraband smuggling may be laundered through Mozambique's financial institutions.

Mozambique's nonbank financial sector, primarily comprised of exchange houses, may be susceptible to money laundering. In August 2002, an Indian national with connections to a Maputo exchange house was detained at an airport in Mozambique attempting to board a flight to Johannesburg with approximately \$1 million. He subsequently escaped from jail.

Mozambique's National Assembly passed an anti-money laundering law in December 2001, which was ratified by the Council of Ministers on February 5, 2002. As of the end of 2003, however, implementing regulations had not been drafted. The law extends the crime of money laundering to encompass predicate offenses beyond narcotics trafficking to most other serious crimes. The law also allows for asset seizure and forfeiture and requires financial institutions to verify the identity of their customers, keep transaction records for at least 15 years, and report suspicious transactions. The law protects employees of financial institutions who cooperate with money laundering investigations and exempts such cooperation from bank and professional secrecy rules. The law also contains "banker negligence" provisions, which hold individual bankers responsible for money laundering.

Bankers have the right to refuse service to anyone who refuses to identify the beneficiary of an account. Judicial authorities are given the right to request account information from financial institutions and to gain access to computer records from banks, individuals, and companies that are suspicious. Judicial authorities also have the right to authorize the tapping of phone conversations as part of financial investigations.

Customs regulations require those entering or leaving the country with foreign currency or negotiable instruments in amounts greater than \$5,000 to file a report with Customs. Taking local currency out of

the country is prohibited. In December 2002, South African authorities apprehended a Pakistani national attempting to cross the South Africa-Swaziland border with \$40,000 hidden under his clothing. He had traveled numerous times between South Africa and Mozambique.

The Government of Mozambique (GOM) has the authority to freeze and seize assets related to terrorist financing. The GOM has also circulated the list of terrorist individuals and entities designated by the UN 1267 Sanctions Committee, as well as the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224.

Mozambique is a member of the Eastern and Southern African Anti-Money Laundering Group, a FATF-style regional body. Mozambique is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Mozambique should implement its anti-money laundering law, establish a Financial Intelligence Unit, and criminalize terrorist financing.

Namibia

Namibia is not a regional financial center. Namibia has one government bank and four commercial banks. Of particular concern in Namibia is the smuggling of precious minerals and gems, the proceeds of which Namibian authorities think may be laundered through Namibian banking institutions.

Namibia has not criminalized money laundering. Banks are required to report suspicious transactions and to record and report the identity of customers engaging in large transactions. Bankers and other individuals making suspicious transaction reports are protected by law with respect to their cooperation with law enforcement authorities. Banks and other financial institutions are required to maintain records related to large transactions and make those records available to government authorities for use in narcotics-related and other criminal investigations.

Namibia is in the process of drafting an anti-money laundering law that would apply to bank and nonbank financial institutions. The law would criminalize money laundering and terrorist financing. It would also address cross-border currency reporting requirements and information sharing with foreign law enforcement authorities. Other aspects of the bill are still being considered.

Namibia currently does not have laws which criminalize the financing of terrorism as required by UNSCR 1373. Under the proposed anti-money laundering bill, terrorism or terrorist financing will be considered a serious crime. Under the Government of the Republic of Namibia's (GRN) proposed antiterrorism legislation, the President will be empowered to proscribe an organization if it commits or participates in terrorism; prepares for acts of terrorism; promotes or encourages terrorism; or is otherwise involved with terrorism.

There have been no known arrests or prosecutions for money laundering or terrorist financing since January 1, 2003.

Namibia is a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG). Namibia served as the Chair of ESAAMLG from August 2001 until August 2002.

On August 16, 2002, Namibia ratified the UN Convention against Transnational Organized Crime. Namibia is also a party to the 1988 UN Drug Convention. In November 2001 the GRN signed the UN International Convention for the Suppression of the Financing of Terrorism; however, it has yet to ratify this Convention.

Namibia should pass a law that criminalizes money laundering and terrorist financing as part of a viable anti-money laundering regime, as it has committed to doing through its membership in

ESAAMLG, and become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Nauru

Nauru is a small central Pacific Island nation with a population of approximately 12,000. It is an independent republic and an associate member of the British Commonwealth. The Republic of Nauru is an established “zero” tax haven, as it does not levy any income, corporate, capital gains, real estate, inheritance, estate, gift, sales, or stamp taxes. It is an offshore banking center with a number of weaknesses in its regulatory structures. The government-owned Bank of Nauru acts as the Central Bank for monetary policy but it has no regulatory function over offshore banks. Nauru’s legal, supervisory, and regulatory framework has provided significant opportunities over time for the laundering of the proceeds of crime.

In June 2000, the Financial Action Task Force (FATF) placed Nauru on the list of noncooperative countries and territories (NCCT) in the fight against money laundering. The FATF, in its June 2000 report, cited several concerns, including excessive bank secrecy provisions, a lack of basic anti-money laundering regulations, and Nauru’s failure to criminalize money laundering. In July 2000, the U.S. Treasury Department issued an advisory to U.S. financial institutions, warning them to give enhanced scrutiny to all financial transactions originating in, or routed to or through Nauru, or involving entities organized or domiciled, or persons maintaining accounts, in Nauru. In response to mounting international pressure, the Government of Nauru passed the Money Laundering and Proceeds Crime Act of 2001 (AMLA 2001) in August 2001. The AMLA 2001 requires financial institutions to maintain accounts in the name of the account holder, thus prohibiting anonymous accounts and accounts held in fictitious names. It also requires financial institutions to record and verify the identity of account holders, to report suspicious activity, and to develop internal anti-money laundering policies and procedures. The AMLA 2001 allows for the establishment of a financial intelligence unit called the Financial Institutions Supervisory Authority (FISA). Thus far, FISA has not been formed and no suspicious transaction reports have been filed. Finally, the AMLA 2001 provides for mutual assistance with respect to money laundering investigations. There are, however, limitations placed on compliance with foreign requests for assistance. Nauru may refuse to comply with a request if the action sought by the foreign authority is contrary to any provision of the Republic of Nauru Constitution, or would prejudice the national interest.

On September 7, 2001, the FATF issued a press release recognizing the passage of the AMLA 2001. The FATF, however, found the legislation to have several deficiencies, and urged Nauru to enact appropriate amendments by November 30, 2001 in order to avoid the application of countermeasures. On December 5, 2001, the FATF called upon its members to impose countermeasures against Nauru because of Nauru’s failure to remedy deficiencies in its anti-money laundering regime. On December 6, 2001, Nauru amended the AMLA 2001 to address certain deficiencies in the original act, including clarifying that the law applies to all financial institutions incorporated under the laws of Nauru (as opposed to just financial institutions conducting business within Nauru), and by broadening the definition of money laundering. Despite the passage of anti-money laundering legislation with amendments, Nauru continued to lack a legal framework and an effective regime for the regulation and supervision of offshore banks.

In January 2002, the U.S. Treasury Department supplemented its previously issued advisory by reminding U.S. banks and other financial institutions of their obligations under the newly enacted Section 313 of USA PATRIOT Act of 2001 concerning correspondent accounts with foreign shell banks. Under this new law, U.S. financial institutions, as well as other financial institutions operating in the United States, are required to terminate any U.S. correspondent accounts provided to foreign shell banks, and they must take reasonable steps to ensure that correspondent accounts held by foreign

banks are not being used to provide U.S. banking services indirectly to foreign shell banks. In December 2002, the Secretary of Treasury, after consultation with the Departments of Justice and State, as well as other concerned U.S. government agencies, designated Nauru as a jurisdiction of “primary money laundering concern” under section 311 of the USA PATRIOT Act (the Act). In the announcement, the U.S. Treasury published a list of 161 banks licensed by the Republic of Nauru, the majority of which are believed to be shell banks. In the announcement, U.S. Treasury proposed invocation of Special Measure Five, prohibiting U.S. financial institutions from opening or maintaining any payable-through or correspondent accounts involving a Nauru financial institution.

During 2003 the government of Nauru took measures to address a number of the internationally cited deficiencies in its anti-money laundering regime. The Anti-Money Laundering Act 2003 (AMLA) consolidates the Anti-Money Laundering Act of 2001 and the Anti-Money Laundering (Amendment) Act of 2001. The amended legislation gives the Nauru FIU, the Financial Institution Supervisory Authority, authority to cooperate with foreign states including the power to obtain search warrants, property tracking, and monetary orders, and gives the Director of Public Prosecutions the power to freeze and seize assets relating to money laundering.

Also in 2003, legislative amendments to the Corporation Act 1972 were designed to abolish offshore banking and shell banks. The amendments also eliminate all bank secrecy provisions. In June 2003, the FATF issued a press release welcoming Nauru’s legislative efforts to eliminate offshore banks. However, a number of legislative clarifications to the Cooperation Amendment Act are necessary to ensure that all banking licenses are no longer valid. In addition, the Banking Act of 1975 must be amended to prohibit the issuance of offshore banking licenses.

During 2003, Nauru took steps to publish the list of corporations which recently held offshore banking licenses from Nauru. This list can be found on Nauru’s Official website URL: <http://www.un.int/nauru/banking.html>. In addition, Nauru has engaged with a number of overseas regulators so that appropriate measures can be taken against previously licensed offshore banks.

The Government of Nauru (GON) has cooperated with officials from the United States and other countries in certain criminal investigations involving Nauruan institutions. Nauru recently joined the United Nations. Nauru has observer status within the Asia/Pacific Group on Money Laundering. Nauru has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. Nauru has also signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Nauru must pass and enact further amendments to AMLA 2003 and Banking Act of 1975. Nauru must continue to work with the FATF to ensure that the existing financial sector is covered by an effective AML regime. Nauru should also criminalize the financing and support of terrorists and terrorism. The GON should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Nepal

Nepal is not a regional financial center and there are no indications that Nepal is used as an international money laundering center. The Government of Nepal (GON) has not criminalized money laundering, and legislation on money laundering, mutual legal assistance and witness protection, developed as part of the GON’s Master Plan for Drug Abuse Control, remained stalled in 2003. (Note: Since the dissolution of Parliament in May 2002, any new laws must be passed by royal ordinance, which must be renewed after six months). Banks are not required to record the identity of customers engaging in significant transactions. However, any Nepali citizen who wishes to open a foreign currency account must obtain a license to do so from the National Bank (NRB), and Nepali citizens wishing to take currency overseas must obtain a letter of credit from a bank recognized by the NRB.

Banks have provided records regarding letters of credit to assist in GON investigations into corruption by senior officials. Nepal has explored the development of an offshore sector.

The NRB has the authority to freeze and seize assets related to criminal investigations. However, the GON's ability to identify and trace assets is hindered by a lack of a computerized informational sharing system. For example, many bank branch offices do not have computers. The Nepal Police also has the authority to seize any goods or property related to criminal investigations.

The hawala system (hundi in Nepal) is widespread. Expatriate Nepali workers—the primary source of hundi transactions—are often employed in the Gulf, Malaysia, and other countries that have introduced new, more stringent regulations on informal remittance systems. Nepali workers in India still utilize hawala-hundi. There have been no significant initiatives to regulate the system in Nepal. In Nepal, hundi is also linked to the issues of capital flight, tax avoidance, and corruption.

Nepal has not passed any laws criminalizing terrorist financing. However, the Terrorist and Destructive Activities Act criminalizes terrorism. As a result, the NRB has the authority to seize any assets deemed to have been used in terrorist activities. No assets belonging to entities on the UN 1267 Sanctions list have been identified in Nepal.

Nepal is a party to the 1988 UN Drug Convention. It has also signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Nepal should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. Nepal should enact anti-money laundering and terrorist finance legislation, develop a comprehensive anti-money laundering regime that would require the mandatory filing of suspicious transaction reports, and establish a financial intelligence unit.

Netherlands Antilles

The Netherlands Antilles, which has autonomous control over its internal affairs, is a part of the Kingdom of the Netherlands. The Netherlands Antilles is comprised of Curacao, Bonaire, the Dutch part of Sint Maarten/St. Martin, Saba, and Sint Eustatius. The Government of the Netherlands Antilles (GONA) is located in Willemstad, the capital of Curacao, which is also the financial center of the five islands. Narcotics trafficking and a lack of border control between Sint Maarten and St. Martin create opportunities for money launderers in the Netherlands Antilles.

The Netherlands Antilles has a significant offshore financial sector with 39 international banks and approximately 50 trust companies providing financial and administrative services to their international clientele, including 18,750 international companies, mutual funds, and international finance companies. The law and regulations on bank supervision state that international banks must have a physical presence on the island and hold records there. The Central Bank supervises the international banks. Authorities in other countries supervise some mutual funds. In early 2003, legislation was introduced to transfer supervision of the trust sector to the Central Bank. International corporations may be registered using bearer shares. It is the practice of the financial sector in the Netherlands Antilles to maintain copies of bearer share certificates for international corporations, which include information on the beneficial owner, either with the bank or the company service providers. There is a proposal to require that the name of the ultimate beneficial owner of the bearer share be recorded in a registry and made accessible to law enforcement officials upon a treaty-based request for the information.

Money laundering is a crime. Legislation in 1993 and subsequent interpretations regarding the “underlying crime” establish that prosecutors do not need to prove that a suspected money launderer also committed an underlying crime in order to obtain a money laundering conviction. It is sufficient to establish that the money launderer knew, or should have known, of the money's illegal origin. In 2000, the National Ordinance on Freezing, Seizing, and Forfeiture of Assets derived from crime went

into effect. The law allows the prosecutor to seize the proceeds of any crime once the crime is proven in court.

Over the past couple of years, the GONA has taken steps to strengthen its anti-money laundering regime by expanding suspicious activity reporting requirements to gem and real estate dealers; enhancing the possibilities of freezing, seizing, or forfeiting criminal assets; introducing indicators for the reporting of unusual transactions for the gaming industry; issuing guidelines to the banking sector on detecting and deterring money laundering; and modifying existing money laundering legislation that penalizes currency and securities transactions, by including the use of valuable goods. The 2002 "National Ordinance on the Supervision of Fiduciary Business," institutes a Supervisory Board that oversees the international financial sector. At the same time, GONA subjected the members of this sector to know-your-customer rules. A GONA inter-agency anti-money laundering working group cooperates with its Kingdom counterparts.

In May 2002 cross-border currency reporting legislation came into force. The law specifies reporting procedures for an individual bringing in or taking out more than NAF 20,000 (approximately \$11,000) in cash or bearer instruments, and also applies to courier services. Declaration of currency exceeding the limit must include origin and destination. There is a fine of up to NAF 500,000 (approximately \$280,900) or one year in prison. In July 2003, Sint Maarten Customs seized \$11,500 from a traveler, and in August 2003, \$20,000 in undeclared currency was seized from a Curacao passenger. The free trade zones are minimally regulated; however, administrators and businesses in the zones have indicated an interest in receiving guidance on detecting unusual transactions. Unusual transactions are by law reported to the financial intelligence unit (FIU), the Netherlands Antilles Reporting Center, Meldpunt Ongebruikelijke Transacties (MOT NA). On June 1, 2003, the Central Bank issued new consolidated reporting guidelines, replacing those of 1996. These guidelines are more closely focused on banks, insurance companies, pensions funds, money transfer services, and financial administrators. The guidelines now specifically include counterterrorism detectors. The Central Bank also established a Financial Integrity Unit to monitor corporate governance and market behavior. Entities under supervision must submit an annual statement of compliance.

Onshore banks are increasingly using their discretionary authority to protect themselves against money laundering. The largest commercial bank has lowered its limits on moneygrams to \$2,000. Banks are reluctant to do business with the Internet gaming providers, provoking complaints from that sector. In 2003 Curacao was reported to have six sports booking sites and 100 Internet casinos.

The current staff of the MOT NA continues to work diligently to enhance the effectiveness and efficiency of its reporting system. In 2003, the MOT NA staff doubled to 10. Significant progress has been made in automating suspicious activity reporting; in 2002 reporting institutions sent 99.2 percent of their reports to the MOT NA electronically. One hundred percent of the submissions is now done on-line, and soon most of the matches with external databases will be done electronically. The Netherlands is reported to be the most significant source of suspicious transactions. Of note is national accounts information indicating that over the past few years, family remissions transfers from the Netherlands have surged from negative to positive. Analysis is required to determine if the source is illicit activities. The MOT NA transmits information electronically to the police. During 2003, there was an increase in information requests from the Public Prosecutor's Office. The MOT NA has issued a manual for casinos on how to file reports and has started to install software in casinos that will allow reports to be submitted electronically.

On October 18, 2002, the GONA published new indicators for the reporting of unusual transactions with regard to terrorism financing. The new indicators require that unusual transactions reported to the police or judicial authorities in connection with money laundering or the financing of terrorism must also be reported to the MOT NA. This requirement also extends to unusual transactions relating to credit cards, money transfers and game of chance transactions.

The MOT NA is an active member of the Egmont Group. Netherlands Antilles law allows the exchange of information between the MOT NA and foreign FIUs by means of memoranda of understanding and by treaty. The MOT NA's policy is to answer requests within 48 hours after receipt. In January 2002, the GONA enacted legislation allowing a judge or prosecutor to freeze assets related to the Taliban cum suis and Usama Bin Ladin cum suis (cum suis means that all companies and persons connected with the Taliban or Usama Bin Ladin are included). The legislation contains a list of individuals and organizations suspected of terrorism. The Central Bank instructed financial institutions to query their databases for information on the suspects and to immediately freeze any assets that were found. In October 2002, the Central Bank instructed the financial institutions under its supervision to continue these efforts and to consult the UN website for updates to the list.

The Netherlands Antilles is a member of the Caribbean Financial Action Task Force (CFATF). As part of the Kingdom of the Netherlands, the Netherlands Antilles participates in the Financial Action Task Force. In 1999, the Netherlands extended application of the 1988 UN Drug Convention to the Netherlands Antilles. The Kingdom of the Netherlands became a party to the UN International Convention for the Suppression of the Financing of Terrorism in 2002. In accordance with Netherlands Antilles law, which stipulates that all the legislation must be in place prior to ratification, the GONA is preparing legislation that will enable the Netherlands Antilles to ratify the Convention. The Mutual Legal Assistance Treaty between the Netherlands and the United States also applies to the Netherlands Antilles. An agreement was signed in April 2002 between the Netherlands and the United States, which is also applicable to the Netherlands Antilles, for the exchange of information with respect to taxes. This agreement is scheduled to come into force in January 2004. In September 2003, the U.S. Attorney in St. Thomas indicted five defendants, including one from Sint Maarten, for charges including laundering funds totaling \$68 million. Cooperation with Sint Maarten under the MLAT was an important element in the investigation.

The GONA has shown a commitment to combating money laundering by establishing a solid anti-money laundering regime. An increase to the MOT NA staff is particularly notable. The GONA should criminalize the financing of terrorists and terrorism, and should enact the necessary legislation to enable it to ratify the UN International Convention for the Suppression of the Financing of Terrorism. The GONA should continue its focus on increasing regulation and supervision of the offshore sector and free trade zones and pursuing money laundering investigations and prosecutions.

The Netherlands

The Netherlands is a major regional financial center and as such is an attractive target for the laundering of funds generated from a variety of illicit activities, which are often related to the sale of heroin, cocaine, synthetic drugs or cannabis. A considerable portion of domestic money laundering is believed to be generated through activities involving financial fraud. Much of the money laundered in the Netherlands is likely owned by major drug cartels and other international criminal organizations. There are no indications of syndicate-type structures in organized crime or money laundering and there is virtually no black market for smuggled goods in the Netherlands. The Dutch experience with law enforcement and unusual transaction reporting provides no evidence that money laundering is focused on any particular part of the financial sector. Although, under the Schengen Accord, there are no formal controls on the borders with Germany and Belgium, the Dutch authorities run special operations designed to keep smuggling to a minimum.

In 1994, the Netherlands criminalized money laundering related to all crimes, although prosecutors first had to prove the predicate offense before prosecuting for money laundering. In 2002, legislation was enacted making the facilitating, encouraging, or engaging in money laundering a separate criminal offense, easing somewhat the government's burden of proof regarding the criminal origins of proceeds. Under the new law, the government needs only to prove that the proceeds "apparently"

originated from a crime. The penalty for deliberate acts of money laundering is a maximum of four years' imprisonment and a maximum fine of 45,000 euros, while liable acts of money laundering (of people who do not know first-hand of the criminal nature of the origin of the money, but should have reason to suspect it) are subject to a maximum imprisonment of one year and a fine no greater than 45,000 euros. Repeated convictions for money laundering offenses may be punished with up to six years' imprisonment and a maximum fine of 45,000 euros. In addition to criminal prosecution for money laundering offenses, money laundering suspects can also be charged with participation in a criminal organization (Article 140 of the Penal Code), violations of the financial regulatory acts, or noncompliance with the obligation to declare unusual transactions according to the economic offenses act.

All financial institutions in the Netherlands, including banks, bureaux de change, casinos, and credit card companies, are required to report cash transactions over 15,000 euros as well as any less substantial transaction that appears unusual, to the Office for Disclosure of Unusual Transactions (MOT), the Netherlands' financial intelligence unit (FIU). In December 2001, the reporting requirements were expanded to include trust companies, financing companies, and commercial dealers of high-value goods. In June 2003, notaries, lawyers, real estate agents, accountants, and tax advisors were added. Under the Identification of Services Act (WID), all those that are subject to reporting obligations must identify their clients, either at the time of the transaction or at some point prior to the transaction, before providing financial services.

Financial institutions are also required by law to maintain records necessary to reconstruct financial transactions for at least five years. The requirements also have been applicable to the Central Bank of the Netherlands (to the extent that it provides covered services) since 1998. There are no secrecy laws or fiscal regulations that prohibit Dutch banks from disclosing client and owner information to bank supervisors, law enforcement officials, or tax authorities. Financial institutions and all other institutions under the reporting and identification acts, and their employees, are specifically protected by law from criminal or civil liability related to cooperation with law enforcement or bank supervisory authorities. Furthermore, current legislation requires Customs authorities to report unusual transactions to the MOT; however, the Dutch do not currently have a currency declaration requirement for incoming travelers.

The Money Transfer and Exchange Offices Act, which was passed in June 2001, requires money transfer offices, as well as exchange offices, to obtain a permit to operate, and subjects them to supervision by the Central Bank. Every money transfer client has to be identified.

The Central Bank of the Netherlands, the Financial Markets Authority and the Pension and Insurance Chamber, as the supervisors of the Dutch Financial sector regularly exchange information nationally and internationally. Sharing of information by Dutch supervisors does not require formal agreements or MOUs. Plans to merge the supervisory Activities of the Pension and Insurance Chamber with that of the Netherlands Central Bank are well advanced. The supervisory Activities of the Pension and Insurance Chamber will be merged with that of the Netherlands Central Bank on April 1, 2004.

The MOT, which was established in 1994, reviews and analyzes the unusual transactions and cash transactions filed by banks and financial institutions. It forwards suspicious transaction reports with preliminary investigative information to the Police Investigation Service and to the office for operational support of the National Public Prosecutor for MOT cases (BLOM). The total number of unusual financial transaction reports received by the MOT in 2002 almost doubled (up 81 percent) from 2001, to over 137,000. The MOT flagged approximately 24,000 of the unusual transaction reports as "suspicious" for further investigation by the BLOM. The increase in unusual transaction reports is predominately from the reports generated by money transfer offices (notably through providers like Western Union and Money Gram).

In order to facilitate the forwarding of suspicious transactions, the MOT and BLOM created an electronic network called Intranet Suspicious Transactions. Also, a secure website for the actual reporting of unusual transactions by financial institutions was developed, thus completing the electronic infrastructure. Furthermore, fully automatic matches of data with the police databases are included with the unusual transaction reports forwarded to the BLOM. Since the money laundering detection system also covers areas outside the financial sector, the system is used for detecting and tracing terrorist financing activity.

In 2002, BLOM conducted 120 anti-money laundering actions, resulting in the confiscation of approximately 30 million euros, and arrested 192 suspects. In addition, they initiated 322 additional money laundering investigations. The anti-money laundering division of Europol is currently using the BLOM's analysis tool, including the associated database.

The Netherlands has enacted legislation governing asset forfeitures. The 1992 Asset Seizure and Confiscation Act enables the authorities to confiscate assets that are illicitly obtained or otherwise connected to criminal acts. The legislation was amended in 2003 to improve and strengthen the options for identifying, freezing and seizing criminal assets. The police and several special investigation services are responsible for enforcement in this area. These entities have adequate powers and resources to trace and seize assets. Asset seizure has been fully integrated in all law enforcement investigations into serious crime. Statistics provided by the Office of the Public Prosecutor show that the amount of assets confiscated in 2002 amounted to 7.9 million euros (\$8.4 million). The Public Prosecutor Hit-And-Run Money Laundering Teams (HARM-Team) established in 2001 seized a total amount of 29.5 million euros (\$36.9 million). The U.S. and the Netherlands have an agreement on asset sharing dating back to 1994.

Terrorist financing is a crime in the Netherlands. In 2002, the "Sanction Provision for the Duty to Report on Terrorism" became effective. This ministerial decree provides authority to the Netherlands to identify, freeze, and seize terrorist finance assets. The Netherlands has frozen more terrorist related assets than any other EU member state. The decree also requires financial institutions to report all transactions (actually carried out or intended) that involve persons, groups, and entities that have been linked, either domestically or internationally, with terrorism, to the MOT. Any terrorist crime will automatically qualify as a predicate offense under the Netherlands "all offenses" regime for predicate offenses of money laundering. Legislation increasing the penalties for terrorist financing was passed by the second chamber of Parliament and is expected to pass the upper chamber and go into effect by mid-year 2004. The Netherlands Security Service investigates terrorist financing, and is cooperating with law enforcement entities that are experienced in this area.

Dutch civil law requires registration of all active foundations in the registers of the Chambers of Commerce. Each foundation's formal statutes (creation of the foundation must be certified by a notary of Law) must be submitted to the Chambers. Charitable institutions also register with, and report to, the tax authorities in order to qualify for favorable tax. Approximately 15,000 organizations (and their management) are registered in this way. The organizations have to file their statutes, showing their purpose and mode of Operations, and submit annual reports. Samples are taken for Auditing.

The Netherlands is in full compliance with FATF money laundering and terrorist financing recommendations, with respect to both legislation and enforcement. The Netherlands also complies with the European Union's (EU) second money laundering directive. The EU directives have been implemented through the Money Laundering Disclosure Act, and the FATF guidelines have been incorporated into the Identification of Financial Services Act. In some areas, money laundering legislation in the Netherlands is ahead of the EU legislation (such as full money laundering controls on money remitters, including licensing and identification of customers).

The Netherlands is a member of the Financial Action Task Force (FATF) and participates in the Caribbean Financial Action Task Force as a Cooperating and Supporting Nation. The MOT is a

member of the Egmont Group of FIUs. MOT has concluded formal information sharing MOUs with Belgium, Aruba and the Netherlands Antilles. The Netherlands 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. The Dutch participate in the Basel Committee, and have endorsed the Committee's "Core Principles for Effective Banking Supervision." In February 2002, the Netherlands became a party to the UN International Convention for the Suppression of the Financing of Terrorism. The Netherlands has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Since March 2002, the MOT has supervised the PHARE Project for the European Union. The PHARE Project is the European Commission's Anti-Money Laundering Project for Economic Reconstruction Assistance to Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Romania, Bulgaria, Cyprus, and Malta. The purpose of the project is to provide support to Central and Eastern European countries in the development and/or improvement of anti-money laundering regulations. For this purpose, the MOT has established a project team of six persons. In addition to the team, there is a consortium of international experts. The MOT has also established, and monitors, the FIU.NET Project, (an electronic exchange of current information between European FIUs by means of a secure web).

The Netherlands should continue the strong enforcement of its anti-money laundering program and its leadership in the international arena.

New Zealand

New Zealand is not a major regional or offshore financial center. It has a small number of banks and financial institutions whose operations can be effectively monitored by government authorities. There is evidence that some money laundering does take place, although not to a significant extent. Narcotics proceeds and commercial crime are the primary sources of illicit funds. International organized criminal elements do operate in New Zealand.

A 1995 amendment to New Zealand's Crimes Act 1961 criminalized the laundering of proceeds knowingly derived from a serious offense. The Financial Transaction Reporting Act 1996 contains obligations for a wide range of financial institutions, including banks, credit unions, casinos, real estate agents, lawyers, and accountants. These entities must identify clients, maintain records, and report suspicious transactions. The Act also contains a "safe harbor" provision and requires the reporting of large cross-border currency movements.

The Terrorism Suppression Act, enacted in October 2002, criminalized terrorist financing. This Act also made the necessary changes to the existing law to enable New Zealand to ratify the UN International Convention for the Suppression of the Financing of Terrorism on November 4, 2002. The Act gives the government wider authority to designate entities as terrorist organizations and freeze their assets. The Prime Minister is responsible for making the designation upon a recommendation prepared by the New Zealand Police. Once the designation is made, the New Zealand Police informs banks and other appropriate parties. A public notice is also published. The Police are currently developing additional procedures to implement the provisions of the Terrorism Suppression Act.

New Zealand has consistently implemented financial controls against entities included on the UN 1267 Sanctions Committee consolidated list. It has not yet identified in New Zealand any assets from these entities.

New Zealand and the United States do not have a Mutual Legal Assistance Treaty. However, New Zealand legislation applies certain provisions of the Mutual Assistance in Criminal Matters Act 1992 unilaterally to the United States. In practice, New Zealand and U.S. authorities have had a good record of cooperation and information sharing in this area.

New Zealand is a party to the 1988 UN Drug Convention, and in July 2002, ratified the UN Convention against Transnational Organized Crime, which is not yet in force internationally. New Zealand is a member of the Financial Action Task Force, the Asia/Pacific Group on Money Laundering (APG), and the Pacific Islands Forum. Its Financial Intelligence Unit is a member of the Egmont Group. The New Zealand government has played a leadership role in promoting efforts to combat money laundering in the South Pacific region, providing substantial amounts of technical assistance and training.

New Zealand has established a comprehensive anti-money laundering regime. It should build upon this base by continuing its implementation of its Terrorism Suppression Act. Additionally, New Zealand should continue its recognized leadership in the international arena.

Nicaragua

While Nicaragua is not a regional financial center, Nicaragua's status as a drug transit zone and highly vulnerable banking system make the country an attractive target for narcotics-related money laundering. Government of Nicaragua (GON) officials have stated that most laundered money comes from misappropriated public revenues rather than from contraband or narcotics. The GON has pledged to fight terrorism, money laundering, and narcotics trafficking. However, limited resources and corruption continue to complicate efforts to counter these threats. Nicaragua suffers from economic instability, weak regulation, and lax oversight of its financial system.

Nicaragua does not permit offshore banks to operate as such but it does permit them to establish and operate through nationally chartered entities (such as a Panamanian bank currently working to establish a savings and loan company under a Nicaraguan charter). Bank and company bearer shares are permitted. Nicaragua has a well-developed indigenous gaming industry, which it is only now moving to regulate.

Nicaragua's Law 177 of 1994 criminalized money laundering related to drug-trafficking; however, money laundering not related to drugs remains legally undefined. Attempts to amend Law 177 to address this deficiency have been rejected by the National Assembly. Law 285 of 1999 reformed Law 177 only in that it requires banks to report cash deposits that exceed approximately \$10,000 to the Bank Superintendence, which forwards these reports for analysis to the Commission of Financial Analysis (CFA) within the National Anti-Drug Council. Law 285 also prohibits anonymous accounts, requires financial institutions to identify customers and maintain transaction records for five years, and requires travelers entering the country to declare cash, monetary instruments, or precious metals exceeding approximately \$10,000 or its foreign equivalent. Finally, Law 285's implementing measure, Decree 74, requires that financial institutions report all complex, unusual, and significant transactions, and transactions with no apparent legal purpose, to the Bank Superintendence and to the CFA. The CFA is not a financial intelligence unit; however, it is assigned responsibility for detecting money laundering trends, coordinating with other investigative agencies, and reporting its findings to the National Anti-Drug Council. On paper, the CFA is composed of representatives from various elements of law enforcement and banking regulators, but in practice the CFA is an ineffective operation. On the other hand, a largely USG supported "Economic Crimes Unit" within the Nicaraguan National Police has contributed to a number of high-level money laundering investigations and prosecutions.

In 2003, a draft law that establishes money laundering as an autonomous crime and requires more stringent reporting of large or suspicious bank deposits was introduced in the National Assembly. The new legislation also sets up a Commission of Financial Analysis that will conduct both analysis and investigations. However, this legislation has little support and it is unlikely that the Assembly in the near term will consider the draft law. The GON is also developing a new law that would regulate and tax the gaming industry and attempt to prevent money laundering within it.

Since its election, the Government of President Enrique Bolanos has pushed a strong anti-corruption campaign. Several prominent figures from the administration of former President Aleman have been arrested and convicted for corruption and money laundering. Other major figures continue to use parliamentary immunity to avoid money laundering charges in local courts.

Nicaragua is currently negotiating a financial information sharing agreement with Costa Rica, largely based on model legislation created by the Central American Parliament. It does not have such an agreement with the United States but has cooperated, on an ad hoc basis, in a number of recent cases. In this manner it has also benefited in several U.S. asset seizure cases such as a DEA-seized drug boat and the Florida properties of the former Nicaraguan tax director. In the case of assets seized within the country, the proceeds are generally apportioned between the lead agency (usually the police) and the general treasury.

Draft antiterrorism legislation, which would criminalize terrorism financing, is being circulated through various National Assembly committees but is not likely to pass anytime soon. In the meantime, most elements of terrorism and terrorism financing may be prosecuted under existing laws. The GON has the authority to identify, freeze, and seize terrorism-related assets but has not, as yet, identified any such cases. To the GON's knowledge, there are no hawala or other similar alternative remittance systems operating in Nicaragua, nor has there been a recognized use of gold or gem trading or charitable organizations to disguise such transactions.

Nicaragua is a party to the 1988 UN Drug Convention. It has also ratified the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, and the UN Convention for the Suppression of the Financing of Terrorism. Nicaragua is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, and signed the Central American Treaty for the Prevention and Repression of Money and Asset Laundering Related to Illicit Activities Connected with Drug Trafficking and Related Crimes. In 2002, Nicaragua was reinstated to the Caribbean Financial Action Task Force (CFATF) after having been suspended due to a lack of participation.

The GON should expand the predicate crimes for money laundering beyond narcotics trafficking. The GON should establish a functional financial intelligence unit and fully implement and fund its anti-money laundering regime. Nicaragua should take steps to immobilize its bearer shares and adequately regulate its gaming industry. The GON should criminalize terrorist financing. Until Nicaragua brings its anti-money laundering/antiterrorist financing regime up to international standards, its financial sector will remain vulnerable to abuse by criminal and terrorist organizations and their supporters.

Niger

Niger is not a regional financial center. While there are criminal activities that take place within the region, there is no evidence to suggest that money laundering activities take place on a large scale within Niger. Seven small commercial banks and one modest-sized local bank operate in Niger. Black market currency exchanges operate freely and currency easily flows unregulated through Niger's porous borders. Most economic activity takes place in the informal sector.

The Central Bank of West African States (BCEAO), based in Dakar, Senegal, is the Central Bank for the countries in the West African Economic and Monetary Union (WAEMU): Benin, Burkina Faso, Guinea-Bissau, Cote d'Ivoire, Mali, Niger, Senegal, and Togo, all of which use the French-backed CFA franc currency. All bank deposits over approximately \$7,700 made in BCEAO member countries must be reported to the BCEAO, along with customer identification information. In addition, all foreign currency exchanges over 1 million CFA (approximately \$1,900) require written authorization from the Niger Ministry of Finance.

In September 2002, the WAEMU Council of Ministers, which oversees the BCEAO, issued a directive requesting that each member country set up a national committee under their Minister of Finance to deal with financial information as it relates to money laundering. The BCEAO would be in charge of coordinating such committees. Each member country is now responsible for putting legislation in place to implement this directive, and the legislation is expected to be harmonized regionally. On November 27, 2003, the Niger Council of Ministers adopted a bill that formally prohibits money laundering and puts into place structures and regulations to deter such activity. The bill is expected to become law in early 2004 after passage by the National Assembly. When in force, this law will bring Niger into conformity with the rest of the WAEMU nations. The bill calls for the creation of a central office at the BCEAO for the coordination of money laundering issues and formally obliges all financial institutions in Niger to report suspicious activity. Currently, banks in Niger report suspicious activity to the BCEAO and to local law enforcement, although there are no legal requirements to do so. In 2002, one bank account in Niger was frozen due to its relationship to illegal financial activity.

The Government of Niger (GON) and the BCEAO actively comply with U.S.-led efforts to combat terrorist financing. When notified, the BCEAO promptly disseminates information to all financial institutions in Niger. Since January 1, 2003, there have been no reported cases of money laundering or terrorist financing in Niger.

The WAEMU Council of Ministers also issued a directive in September 2002 on the topic of terrorist financing, requesting member countries to pass legislation requiring banks to freeze the accounts of any persons or organizations on the UN 1267 Sanctions Committee consolidated list.

In 2000, the Economic Community of West African States (ECOWAS) established the Intergovernmental Group for Action Against Money Laundering (GIABA), based in Dakar, Senegal. In November 2002, GIABA hosted an anti-money laundering seminar for representatives of 14 ECOWAS members, including Niger. In July 2002, Niger participated in the 2002 West African Joint Operation Conference (WAJO) that promotes regional law enforcement cooperation against drug trafficking, terrorism, and money laundering. Niger is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Niger should criminalize money laundering and terrorist financing and sign the UN International Convention for the Suppression of the Financing of Terrorism. Niger should also make suspicious transaction reporting mandatory.

Nigeria

The Federal Republic of Nigeria is the most populous country in Africa and is West Africa's largest democracy. Nigeria's large economy is also a hub of trafficking of persons and narcotics and a center of criminal financial activity for the entire continent. Individuals and criminal organizations have taken advantage of the country's location, weak laws, systemic corruption, lack of enforcement, and poor economic conditions to strengthen their ability to perpetrate all manner of financial crimes at home and abroad. Nigerian criminal organizations have proven adept at devising new ways of subverting international and domestic law enforcement efforts and evading detection. Their success in avoiding detection and prosecution has led to an increase in financial crimes of all types, including bank fraud, real estate fraud, identity theft, and advance fee fraud. Despite years of government effort to counter rampant crime and corruption, Nigerians continue to be plagued by crime.

Advance fee fraud is a lucrative financial crime that generates hundreds of millions of illicit dollars annually for criminals. Initially, Nigerian criminals made advance fee fraud infamous; recently nationals of many African countries and from a variety of countries around the world have begun to perpetrate advance fee fraud. This type of fraud is referred to internationally as "Four-One-Nine" fraud (419 is a reference to the fraud section in Nigeria's criminal code). While there are many variations,

the main goal of 419 fraud is to deceive victims into payment of an advance fee by persuading them that they will receive a very large benefit in return. These “get rich quick” schemes have ended for some victims in monetary losses, kidnapping, or murder. Through the Internet, businesses and individuals around the world have been and continue to be targeted by perpetrators of 419 scams.

In June 2001 the Financial Action Task Force (FATF) placed Nigeria on the list of noncooperative countries and territories (NCCT) in combating money laundering. Among the deficiencies cited by the FATF were the failure to criminalize money laundering for offenses other than those related to narcotics, the lack of customer identification requirements for over-the-counter transactions under a threshold of \$100,000, inadequate suspicious transaction reporting requirements, the absence of anti-money laundering measures applied to stock brokerage firms and other financial institutions, and a high level of government corruption. In April 2002, FinCEN, the U.S. financial intelligence unit, issued an advisory to inform banks and other financial institutions operating in the United States of serious deficiencies in the anti-money laundering regime of Nigeria.

In June 2002, the FATF stated that it would consider recommending countermeasures against Nigeria at its October 2002 plenary if Nigeria did not engage with the FATF Africa Middle East Review Group and move quickly to enact legislative reforms that addressed FATF concerns. In October, the FATF recommended countermeasures against Nigeria if the Government of Nigeria (GON) did not enact sufficient legislative reforms by December 15, 2002.

On December 14, 2002, the National Assembly of Nigeria passed three pieces of anti-money laundering legislation, and President Olusegun Obasanjo signed the legislation into law the same day: an amendment to the 1995 Money Laundering Act that extends the scope of the law to cover the proceeds of all crimes; an amendment to the 1991 Banking and Other Financial Institutions (BOFI) Act that expands coverage of the law to stock brokerage firms and foreign currency exchange facilities, gives the Central Bank of Nigeria (CBN) greater power to deny banks licenses, and allows the CBN to freeze suspicious accounts; and the Economic and Financial Crimes Commission (Establishment) Act that establishes the Economic and Financial Crimes Commission (EFCC)—a financial intelligence unit—that will coordinate anti-money laundering investigations and information sharing. Since May 2003, the EFCC has seized assets valued at \$2 million. The new Economic and Financial Crimes Commission Act 2002 also criminalizes the financing of terrorism and participation in terrorism. Violation of the Act carries a penalty of up to life imprisonment.

In April 2003, the EFCC was formally constituted with the primary mandate to investigate and prosecute financial crimes. Since April 2003, the EFCC has recovered or seized assets valued at over 31 billion naira (\$219 million) from various people guilty of fraud inside and outside of Nigeria, and more than one billion naira (\$7 million) from a syndicate that included highly placed government officials who were defrauding the Federal Inland Revenue Service (FIRS). Several influential individuals have been arrested and are currently awaiting trial. In an effort to expedite the trial process, the Commission has been assigned two high court judges in Lagos and two in Abuja to hear all cases involving financial crimes. This signals an intent by the government to more aggressively investigate “419” and other economic crimes in Nigeria.

In November 2003, President Obasanjo presented bills on money laundering and economic crimes to the Senate for consideration. The bills’ intent is to further strengthen the government’s powers to combat financial crimes. Once passed, the money laundering law will apply to the proceeds of all financial crimes. It will also cover stock brokerage firms and foreign currency exchange facilities. The legislation will give the CBN greater power to deny banks licenses and freeze suspicious accounts. This legislation will strengthen the financial institutions by also requiring more stringent identification of accounts, removing a threshold for suspicious transactions, and lengthening the period for retention of records.

There is one case currently before the Nigerian courts involving money laundering.

Nigeria is a party to both the 1988 UN Drug Convention and the UN Convention against Transnational Organized Crime. In June 2003, Nigeria ratified the UN International Convention for the Suppression of the Financing of Terrorism. On December 9, 2003, Nigeria signed the UN Convention Against Corruption. The United States and Nigeria signed a Mutual Legal Assistance Treaty (MLAT) in 1989, which entered into force in January 2003. Nigeria has signed memoranda of understanding with Russia, Iran, India, Pakistan, and Uganda to facilitate cooperation in the fight against narcotics trafficking and money laundering. Nigeria has also signed bi-lateral agreements for exchange of information on money laundering with South Africa, United Kingdom, and all Commonwealth and Economic Community of West African States countries.

The GON should continue to engage with the FATF to ensure that Nigeria's remaining anti-money laundering deficiencies are corrected. It should also bolster the EFCC by ensuring that it is adequately funded. The GON should construct a comprehensive anti-money laundering regime that willingly shares information with foreign regulatory and law enforcement agencies, that is capable of thwarting money laundering and thwarting terrorist financing and comports with all relevant international standards. The GON should criminalize the financing of terrorism consistent with the UN International Convention for the Suppression of the Financing of Terrorism.

Niue

Niue is a self-governing parliamentary democracy in the South Pacific that maintains a free association with New Zealand. Niueans are citizens of New Zealand and are part of the British Commonwealth.

Concerns were raised in the past about Niue's vulnerability to money laundering. Legislation from the mid-1990s created an offshore financial center heavily dependent upon international business companies (IBCs). In addition, a small number of offshore banks were licensed. Niue also offers trusts, partnerships, financial management, and insurance services. Niue allows the creation of asset protection trusts that are impervious to many types of legal claims arising in other jurisdictions. In addition, trusts in Niue are exempt from taxation if the parties to the trust are not residents of Niue.

The International Business Companies Act of 1994 is the legislative basis for establishing IBCs. Marketers of offshore services promote Niue as a favored jurisdiction for establishing IBCs, for a variety of reasons. The presence of a significant number of international business companies, operating offshore, makes Niue particularly vulnerable to money laundering. With a population of roughly 2,100, Niue reported that it had registered 9,229 IBCs as of December 2003. Allowed under Niue's International Business Companies Act 1994, the IBCs are not required to disclose their beneficial ownership or to keep a register of directors. Moreover, Niue allows bearer shares and the marketing of shelf companies, which are offered by Internet marketers complete with associated offshore bank accounts and mail-drop forwarding services. The IBCs are legally formed and registered by a Panamanian law firm on Niue's behalf. The government reported in December 2003 that it had not registered any offshore financial service businesses, such as insurance companies, mutual fund companies, trust companies, and agents.

The Proceeds of Crime Act 1998 criminalizes the laundering of proceeds from any offense punishable by at least one year in prison. Under the Proceeds of Crime Act, financial institutions may report suspicious transactions either to the police or to the Attorney General. However, there have been no such reports, and there are not relevant procedures in place to deal with their possible collection and analysis. Currently, the Proceeds of Crime Act allows the court to order the confiscation or forfeiture of property derived from a serious offense, once the offender has been convicted. The Act does not specifically address assets derived from narcotics trafficking, terrorism financing, or organized crime. The government is working to amend the Act to allow it to freeze transactions in which money laundering or terrorism financing is suspected.

Niue enacted the Financial Transactions Reporting Act (FTRA) in November 2000. The FTRA imposes reporting and record keeping obligations upon banks, insurance companies, securities dealers and futures brokers, money services businesses, and persons administering or managing funds on behalf of IBCs. Specifically, the FTRA requires financial institutions to report suspicious transactions, verify the identity of its customers, and keep records of financial transactions for six years. However, the act contains a number of loopholes that result in inadequate customer identification requirements, among other deficiencies. For example, section 11 of the FTRA requires that financial institutions verify the identity of customers who wish to conduct a transaction. Subsection 11(2) provides a loophole in that a financial institution dealing with an intermediary need establish the identity of the underlying customer only if the transaction exceeds \$10,000.

The FTRA also calls for the establishment of a Financial Intelligence Unit (FIU) within the office of the Attorney General. The FIU has still not been established. Niuean officials have said that the establishment of the FIU will depend upon the outcome of ongoing discussions among the Pacific Islands Forum of a proposed regional FIU for Forum member countries. To date, no movement has been made towards the establishment of any operational FIU, domestic or regional.

Should a Niuean FIU become operational, financial institutions will be required to prepare a written statement of their internal procedures to make their officers and employees aware of the laws in Niue about money laundering; the procedures, policies, and audit systems adopted by the institution to deal with money laundering; and procedures to train the institution's officers and employees to recognize and deal with money laundering; and then to submit the statement of those procedures to the unit. The FIU will also have powers to conduct investigations to ensure compliance with the Financial Transactions Reporting Act 2000 by financial institutions. Currently, casinos and notaries are not covered within the definition of "financial institution" under the Act, but the Government is considering promoting an amendment that would substitute the definition of "financial institution" from the IMF model Financial Transactions Reporting Act.

The Financial Transactions Reporting Act 2000 provides that one of the functions of the financial intelligence unit is to issue guidelines to financial institutions in relation to transaction record keeping and reporting obligations and to provide training programs for financial institutions about transaction record keeping and reporting obligations.

In June 2000, the Financial Action Task Force (FATF) placed Niue on the list of noncooperative countries and territories (NCCT) in the fight against money laundering, because of numerous deficiencies in Niue's anti-money laundering regime. In particular, the report cited deficiencies in customer identification requirements, and concerns that the structure and effectiveness of the regulatory regime for offshore financial institutions and IBCs were inadequate. Following the FATF exercise, the U.S. Treasury Department issued an advisory to United States financial institutions advising them to give enhanced scrutiny to all financial transactions involving Niue.

In June 2002, Niue brought into force the International Banking Repeal Act. This Act eliminated Niue's offshore banks. As a result, all offshore banking licenses have been terminated. In addition, Niue now maintains in country a mirror of the IBC registry kept in Panama. All company registration information is kept on island by a registered agent and is accessible to appropriate officials.

Due to these reforms, the FATF decided in October 2002 that Niue has in place an anti-money laundering system that generally meets international standards. Niue was therefore removed from the NCCT list. The U.S. Treasury Department subsequently withdrew its June 2000 advisory to U.S. financial institutions.

Niue is not a member of the United Nations. In November 2001, the government amended the United Nations Act 1946 to enable the Cabinet to promulgate regulations giving effect to UN Security Council resolutions. And, in September 2003, the Cabinet passed the United Nations Sanctions

(Terrorism Suppression and Afghanistan Measures) Regulations 2003. Those regulations implement UN Security Council Resolution 1373, as well as Resolutions 1267 and 1333.

Niue has not signed the Vienna Convention. Niue is a member of the Asia/Pacific Group on Money Laundering.

In 1998, Niue passed the Mutual Assistance in Criminal Matters Act, which authorizes the Attorney General of Niue to provide certain types of legal assistance to other countries involved with criminal investigations. Niue has no bilateral cooperation agreements with other countries for the exchange of information on money laundering, though the government has expressed a willingness to cooperate with international efforts to combat money laundering.

Niue should continue to enhance its anti-money laundering legislation. Recent reforms address some of the deficiencies in Niue's anti-money laundering regime; however, the government must finalize and promulgate the necessary regulations to bring the legislation into full force, including the establishment of an FIU. Niue must ensure that the recently enacted reforms are fully and effectively implemented. Additionally, Niue should criminalize terrorist financing.

Norway

Norway is not considered an important regional financial center; there are 19 commercial banks in the country and approximately 125 savings banks. According to Oekokrim, the economic crime unit of the Ministry of Justice, which serves as Norway's financial intelligence unit (FIU), money laundering is linked with a wide range of criminal activity, including, but not limited to, narcotics trafficking. Most money laundering cases in Norway are related to domestic criminal activity, and no terrorist groups are known to have laundered funds in the country. Most money laundering occurs outside the banking system of Norway, due to the reporting requirements of the financial institutions; however, structuring of deposits still appears to be a problem within the financial system.

The Norwegian Penal Code includes many criminal offenses as predicates to money laundering. Norway's anti-money laundering legislation has been strengthened in recent years to conform to the FATF Forty Recommendations. In 2004, a new Money Laundering Act will take effect, replacing the provisions of the 1988 Financial Institutions Act. The new act will strengthen data registration requirements, broaden the obligation to report suspicious transactions, and make negligent contravention of the act a criminal offense.

The Banking, Insurance, and Securities Commission of Norway monitors the financial markets and financial institutions, issues warnings, forwards the consolidated UNSCR 1267/1390 list of terrorist entities and individuals to financial institutions, and issues orders to freeze assets and funds. The Commission conducts on-site inspections to monitor the finance sector and to ensure that the regulations are complied with correctly. The Commission has also taken steps to strengthen reporting requirements of charitable entities.

Current money laundering statutes require financial institutions to report large and suspicious transactions to Oekokrim, to verify the identity of their customers, and to keep records of transactions for at least five years. Large cash transactions (including cross-border transactions) by banks are routinely reported to the Central Bank and kept on file. Norway has not enacted secrecy laws that prevent disclosure of client and ownership information to bank supervisors and law-enforcement authorities. The law also protects the reporting individuals; however, individual bankers may be held responsible if their institutions are used to launder money. Norway obligates foreign financial institutions operating in Norway to comply with domestic laws and regulations governing host country financial institutions. Money laundering controls are applied to all nonbank financial institutions, including insurance companies.

Money Laundering and Financial Crimes

There were approximately 30 major arrests and/or prosecutions for money laundering in Norway in 2001 and 25 in 2002. Law enforcement officials have the authority to freeze and confiscate assets during money laundering investigations.

Oekokrim continues to establish systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets. According to Norwegian laws, assets derived from criminal acts (narcotics trading, money laundering, and support for terrorism), are to be seized and confiscated by the State. Legitimate businesses may also be seized if used to launder drug money or support terrorist activity, or are linked to other criminal proceeds. Norway destroys seized drugs, alcohol, and cigarettes, but auctions off other items, including automobiles, private property and buildings. The State receives the proceeds from the asset seizures and forfeitures. Norway's asset seizure enforcement meets international standards, and Oekokrim remains the principal entity responsible for tracing and seizing assets, although any police unit may do so in Norway. Norway's Money Laundering Act and Terrorist Financing Law ensure the availability of adequate records in connection with investigations of interest to the U.S. and other governments. To date, Norway has not enacted laws for sharing narcotics assets with other countries.

On June 28, 2002, a new bill entered into force, permanently establishing legislative measures against acts of terrorism and the financing of terrorism, and fulfilling the requirements of the UN International Convention for the Suppression of the Financing of Terrorism. The law applies to anyone who supplies funds to, or collects funds for, individuals or groups that plan acts of terrorism, and makes the support of terrorists with equipment or services a criminal offense.

Norway has the authority to identify, freeze, and seize terrorist financial assets. On October 11, 2002, Norway adopted the European Union's (EU's) Common Position on the application of specific measures to combat terrorism. The Common Position details the names of major terrorists groups. Norway has also distributed to financial institutions the list of individuals and entities from the UN 1267 and UN 1333 Sanctions Committee's Consolidated list. Norway has not discovered any evidence that terrorist funds have been deposited in the country.

Alternative remittance systems are prohibited in Norway. In May 2003, three Somalis were convicted of violating banking regulations by sending unauthorized remittances overseas, and they each received suspended sentences of 45 days in jail. In August 2003, three additional Somalis were similarly convicted, with the leader of the group sentenced to a 14-month jail sentence after being convicted of laundering \$128,500. The prosecutor in the case determined that the group had illegally remitted approximately \$18 million between 1998 and 2001 through two hawala systems. The prosecutor noted that no evidence existed that the money was remitted to fund terrorism activities.

Norway works with Europol and is a member of the Financial Action Task Force (FATF), Interpol, and Schengen. Oekokrim is a member of the Egmont Group. Norway is a party to the 1988 UN Drug Convention. Norway is also a party to the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; the UN International Convention for the Suppression of the Financing of Terrorism; and the UN Convention against Transnational Organized Crime. Norway has now ratified all 12 of the International Conventions and Protocols relating to terrorism.

Norway should continue to enhance its anti-money/laundrying-antiterrorist financing regime. Norway should consider the adoption of laws that would allow the sharing of seized assets with third party jurisdictions which assisted in the conduct of the underlying investigation.

Oman

Oman is not a regional or offshore financial center and does not have a significant money laundering problem. Its small banking sector is supervised by the Central Bank of Oman (CBO), which has the

authority to suspend or reorganize a bank's operations. In 2003, Oman had a total of 16 banks with 356 branches. Smuggling trade goods across Oman's long borders and coastline is becoming an increasing concern. Oman may also be vulnerable to forms of trade based money laundering and customs fraud.

In March 2002, Royal Decree No. 34/2002 was issued promulgating "The Law of Money Laundering." This new law strengthened the existing money laundering regulations by detailing bank responsibilities, widening the definition of money laundering to include funds obtained through any criminal means, and providing for the seizure of assets and other penalties. The new law applies to other types of nonbank financial institutions as well. In 2003, there were no arrests under the law.

In July 2003, Oman submitted a supplementary report to the United Nations with respect to UNSCR 1373 that stated "the legal freezing measures designated by the Money Laundering Act are applied to both residents and nonresidents holding funds, financial assets, or other economic resources in the Sultanate of Oman if they are linked to terrorist-related activities."

The Royal Oman Police (ROP), in coordination with the CBO, is responsible for investigating money laundering activities. Banks are required to know their customers and report all suspicious transactions. Compliance personnel are now present in all banks. Oman has plans to establish a Financial Intelligence Unit (FIU) that will receive suspicious transactions and help coordinate resulting investigations. Oman regulates charitable organizations under the Non-Governmental Organizations Act promulgated pursuant to Royal Decree 14/2000. Under this act, the Minister of Social Development is responsible for approving and monitoring all charitable contributions and fundraising activities.

Oman is a party to the 1988 UN Drug Convention and a member of the Gulf Cooperation Council (GCC), which is a member of the Financial Action Task Force (FATF). In June 2001, Oman underwent a FATF mutual evaluation. Oman has distributed the UN 1267 terrorist asset freeze lists to all banks and other financial institutions in the country for checking against their accounts. Thus far, the Government of Oman has reported negative results.

Oman should become a party to the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

Oman should continue to implement its anti-money laundering program, specifically creating a FIU and training criminal investigators to initiate money laundering investigations from the field. Oman also should become more aware of the dangers of alternative remittance systems to launder money and transfer value such as hawala and trade based money laundering.

Pakistan

Financial crimes related to narcotics trafficking, terrorism, smuggling, tax evasion, and corruption remain a significant problem in Pakistan. Pakistani criminal networks play a central role in the transshipment of narcotics and smuggled goods from Afghanistan to international markets. The proceeds of narcotics trafficking and funding for terrorist activities are often laundered by means of the alternative remittance system called hawala. This system is also widely used by the Pakistani people for legitimate purposes. A nexus of private unregulated charities has also emerged as a major source of illicit funds for international terrorist networks.

The Control of Narcotics Substances Act of 1996 criminalizes the laundering of narcotics-related proceeds. The Act contains provisions for the freezing and forfeiture of assets associated with narcotics trafficking and the reporting of financial transactions believed to be associated with narcotics trafficking. Since 2002, Pakistan's Ministry of Finance has been coordinating an interministerial effort to draft anti-money laundering and antiterrorist financing legislation to bring Pakistan into compliance

with international norms. As of late December 2003, this legislation remains inconsistent with international standards and has not yet received final cabinet approval, nor has it been submitted to the National Assembly. In the absence of such legislation, the Central Bank has created a money laundering unit, put forward a series of “know-your-customer” regulations, and instructed Pakistan’s five largest commercial banks to submit suspicious transaction reports to the Central Bank. Pakistan’s Securities and Exchange Commission, which has regulatory oversight for nonbank financial institutions, is preparing to form a financial crimes unit and is developing “know-your-customer” regulations that will require full disclosure of beneficial ownership of accounts.

Pakistan’s cooperation in Operation Enduring Freedom has brought renewed focus on the role of informal financial networks in financing terrorist activity. In July 2002, the Government of Pakistan (GOP) passed an ordinance regulating hawala money changers and facilitating cross-verification of financial transactions between Pakistan and the Gulf States. These measures have led to the registration and formalization of many hawala businesses, but a significant number continue to operate outside the legal framework. A large percentage of hawala transfers to Pakistan consists of the repatriation of wages from the roughly five million Pakistani expatriates residing abroad. According to U.S. sources, the GOP’s regulation of the domestic hawala business, as well as post-September 11 changes in the patterns of behavior of overseas Pakistanis, have resulted in the migration of a considerable share of hawala business into the formal banking sector.

There have also been reports of money laundering using gold and gems, as well as cash transfers by couriers. Pakistani criminal networks play a central role in the transshipment of narcotics and smuggled goods from Afghanistan to international markets. Trade-based money laundering is also prevalent. Goods such as foodstuffs, electronics, vegetable oils, and other products that are primarily exported from Dubai to Karachi are then forwarded, at least on paper, to Afghanistan via the Afghan transit trade. Through smuggling, corruption, avoidance of customs duties and taxes, and barter deals for narcotics, many of the goods destined for Afghanistan find their way into the burgeoning Pakistani black market. The trading in these goods and commodities is also believed to be used to provide countervaluation in hawala transactions. A nexus of private, unregulated charities has emerged as a major source of illicit funds for international terrorist networks. On December 12, 2003, Pakistan’s Central Bank announced that to date it had frozen bank accounts totaling \$10,780,000 belonging to 27 militant groups as part of a crackdown on terrorist financing.

Currently, Pakistan does not have a financial intelligence unit (FIU). Pakistan’s National Accountability Bureau, Anti-Narcotics Force, Federal Investigative Agency (FIA), and Customs oversee Pakistan’s anti-money laundering efforts. The National Accountability Bureau has been effective in investigating and prosecuting corruption, but has been accused of political bias in selecting its targets. Pakistan is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. As of December 2003, Pakistan had not signed the UN International Convention for the Suppression of the Financing of Terrorism. Pakistan became a member of the FATF-style regional body, the Asia/Pacific Group on Money Laundering, in 2000.

Pakistan should move quickly to enact anti-money laundering and antiterrorist financing legislation that conforms to international standards. It also should issue financial regulations that mandate the reporting of all suspicious transactions, and establish an FIU. In addition, in light of the role that private charities have played in terrorist financing, the GOP should develop a system to regulate charitable organizations and to shut down those charitable organizations that finance violence and terrorism. More emphasis should be put on the misuse of trade to launder money. The misuse of the Afghan transit trade should be examined. Tax reform is an essential component in helping to counteract the appeal of hawala.

Palau

An archipelago of more than 300 islands in the Western Pacific with a population of nearly 20,000 and per capita GDP of about \$6,000. Upon its independence in 1994, the Republic of Palau entered the Compact of Free Association with the United States. The U.S. dollar is legal tender. Palau is not a major financial center. Nor does it any longer offer offshore financial services. There are no offshore banks, trust companies, securities brokers/dealers or casinos in Palau. Palauan authorities believe that drug trafficking and prostitution are the primary sources of illegal proceeds that are laundered.

Amid reports in late 1999 and early 2000 that offshore banks in Palau had carried out large-scale money laundering activities, a few international banks banned financial transactions with Palau. In response, Palau established a Banking Law Review Task Force that recommended financial control legislation to the Olbill Era Kelulau (OEK), the national bicameral legislature in 2001. Following that, Palau took several steps toward addressing financial security through banking regulation and supervision and putting in place a legal framework for an anti-money laundering regime. Several pieces of legislation were enacted in June 2001.

The Money Laundering and Proceeds of Crimes Act (MLPCA) of 2001 criminalized money laundering and created a financial intelligence unit. This legislation imposes threshold and suspicious transactions reporting and record keeping requirements for five years from the date of the transaction. Credit and financial institutions are required to keep regular reports of all transactions made in cash or bearer securities in excess of U.S. \$10,000 or its equivalent in foreign cash or bearer securities. This threshold reporting also covers domestic or international transfers of funds of currency or securities involving a sum greater than U.S. \$10,000. All such transactions (domestic and/or international) are required to go through a credit or financial institution licensed under the laws of the Republic of Palau.

The Financial Institutions Act of 2001 established the Financial Institutions Commission, an independent regulatory agency, which is responsible for licensing, supervising and regulating financial institutions, defined as banks and security brokers and dealers in Palau. Currently, there are nine licensed banks in Palau. Seven of the banks are 100 percent owned by foreigners and foreigners and citizens of Palau jointly own two. Additionally, three other banks have had their licenses invalidated. Other entities subject to the provisions of the MLPCA, such as the seven money services businesses, two finance companies and five insurance companies, are essentially unsupervised. Credit and financial institutions are required to verify customers' identity and address. In addition, these institutions are required to check for information by "any legal and reasonable means" to obtain the true identity of the principal/party upon whose behalf the customer is acting. If identification cannot, in fact, be obtained, all transactions must cease immediately.

The lack of both human and fiscal resources has hampered the development of a viable anti-money laundering regime in Palau. There is not a functioning FIU and implementing regulations to ensure compliance with the MLPCA have yet to be written. The will of the Executive branch to comply with international standards, however, was clearly demonstrated by President Remengesau in 2003, when he vetoed a bill that would have extended the deadline for bank compliance and would have reduced the minimum capital for a bank from \$500,000 to \$250,000.

Palau has enacted several legislative mechanisms to foster international cooperation. The Mutual Assistance in Criminal Matters Act (MACA), passed in June 2001, enables authorities to cooperate with other jurisdictions in criminal enforcement actions related to money laundering and to share in seized assets. The Foreign Evidence Act of 2001 provides for the admissibility in civil and criminal proceedings of certain types of evidence obtained from a foreign State pursuant to a request by the Attorney General under the MACA. Under the Compact of Free Association with the United States, a full range of law enforcement cooperation is authorized.

Palau has taken several steps toward enacting a legal framework by which to combat money laundering. It has signed Pacific Island Forum anti-money laundering initiatives and as a member of the Asia/Pacific Group on Money Laundering, Palau is committed to implement the Financial Action Task Force Revised 40 Recommendations and its Eight Special Recommendations on Terrorist Financing. As a party to the UN Convention for the Suppression of the Financing of Terrorism, Palau should criminalize the financing of terrorism. In continuing its efforts to comport with international standards, Palau should promulgate implementing regulations to the MLPCA, establish a functioning FIU, lower or eliminate the threshold for reporting suspicious transactions and begin a broad-based implementation of the legal reforms already put in place.

Panama

The economy of Panama is services-based and heavily weighted toward maritime transportation, commerce, banking, and financial services. Tourism is taking a prominent role as Panama's cruise industry gains stature internationally. Despite significant progress to strengthen Panama's anti-money laundering regime since October 2000, money laundering remains a serious problem in Panama and is a potential threat to the stability of the country's legitimate financial institutions. Panama's proximity to major drug-producing countries, its sophisticated international banking sector, U.S. dollar-based economy, and the Colon Free Zone's (CFZ) role as an originating or transshipment point for goods purchased with narcotics dollars through the Colombian Black Market Peso Exchange make the country particularly vulnerable to money laundering. Panama's financial institutions engage in currency transactions involving international narcotics trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States.

Panama's large offshore financial sector includes international business companies (over 370,000 currently registered in Panama), offshore banks (approximately 34 banks), captive insurance companies (corporate entities created and controlled by a parent company, professional association, or group of businesses), and trusts. Captive insurance has become one of the most important sectors of Panama's offshore financial industry, following banking. Lack of control over transfer of negotiable (bearer) bonds is another potential vulnerability that could be exploited by money launderers. The high volume of trade occurring through the CFZ (there are approximately 2,040 businesses established in the Zone) presents opportunities for trade-based money laundering to occur.

In June 2000, the Financial Action Task Force (FATF) identified Panama as a noncooperative country or territory in international efforts to fight money laundering (NCCT). In July 2000, the U.S. Treasury Department issued an advisory to U.S. financial institutions advising them to "give enhanced scrutiny" to financial transactions involving Panama, including transactions involving the CFZ. Both the FATF designation and the advisory were withdrawn in June 2001, following a number of significant actions taken by the Government of Panama (GOP) to remedy the cited deficiencies in its anti-money laundering regime. The GOP engaged in a coordinated effort to enact and implement laws, executive orders, and regulatory agreements with banks to bring Panama's anti-money laundering program into compliance with international standards.

Law No. 41 (Article 389) of October 2, 2000, amended the Penal Code by expanding the number of predicate offenses for money laundering beyond narcotics trafficking, to include criminal fraud, arms trafficking, trafficking in humans, kidnapping, extortion, embezzlement, corruption of public officials, terrorism, and international theft or trafficking of motor vehicles. Law No. 41 established a punishment of 5 to 12 years imprisonment and a fine.

Law No. 42 of October 2, 2000, requires financial institutions (banks, trust companies, money exchangers, credit unions, savings and loans associations, stock exchanges and brokerage firms, and investment administrators) to report to the Financial Analysis Unit (UAF)—Panama's financial intelligence unit (FIU)—currency transactions in excess of \$10,000 and suspicious financial

transactions. Law 42 also mandates that casinos, CFZ businesses, the national lottery, real estate agencies and developers, and insurance/reinsurance companies report to the UAF currency or quasi-currency transactions that exceed \$10,000. Furthermore, Law 42 requires Panamanian trust companies to identify to the Superintendence of Banks the real and ultimate beneficial owners of trusts.

Executive Decree No. 163 of October 3, 2000, which amended the June 1995 decree that created the UAF, authorizes the UAF to share information with FIUs of other countries, subject to entering into a memorandum of understanding (MOU) or other information exchange agreement. By the end of 2003 the UAF had signed MOUs with 27 FIUs, including the U.S. FIU. Executive Order No. 163 also allows the UAF to provide information related to possible money laundering directly to the Office of the Attorney General for investigation. The UAF continues efforts to raise the level of compliance for reporting suspicious financial transactions, particularly by nonbank financial institutions and businesses in the CFZ.

Executive Order 213 of October 3, 2000, amending Executive Order 16 of 1984 relating to trust operations, provides for the dissemination of information related to trusts to appropriate administrative and judicial authorities. Furthermore, in October 2000, Panama's Superintendence of Banks issued Agreement No. 9-2000 that defines requirements that banks must follow for identification of customers, exercise of due diligence, and retention of transaction records.

In 2002, the Ministry of Commerce and Industry issued a circular to all finance companies reminding them of the transaction-reporting requirement of Law 42. It also increased the number of inspections of finance companies, and began drafting a law to regulate the operations of pawnshops and exchange houses. The Autonomous Panamanian Cooperative Institute established a specialized unit for the supervision of loans and credit cooperatives regarding compliance with the requirements of Law 42. The National Securities Commission carried out numerous training sessions and workshops for its personnel and regulated entities. The Colon Free Zone Administration prepared and issued a procedures manual for the users of the CFZ, outlining their responsibilities regarding prevention of money laundering and requirements under Law 42.

In December 2002, the Panamanian Legislative Assembly approved the Financial Crimes Bill (Law No. 6 of December 6, 2002), which establishes criminal penalties of up to ten years in prison and fines of up to one million dollars for financial crimes that undermine public trust in the banking system, the financial services sector, or the stock market. The penalties criminalize a wide range of activities related to financial intermediation, including the following: illicit transfers of monies, accounting fraud, insider trading, and the submission of fraudulent data to supervisory authorities.

With support from the Inter-American Development Bank, the GOP is implementing a Program for the Improvement of the Transparency and Integrity of the Financial System. This Transparency Program is targeted, through enhanced communication and information flow, training programs, and technology, at strengthening the capabilities of those government institutions responsible for preventing and combating financial crimes and terrorist financed activities.

Panama has brought cases for domestic prosecution, and the UAF routinely transfers cases to the Unidad de Inteligencia Financiera (UIF) for investigation. During 2002, the UAF referred 196 such cases to the Attorney General. To increase GOP interagency coordination, the UAF and Panamanian Customs are developing an office at the Tocumen International Airport to expedite the entry of customs currency declaration information into the UAF's database. This will enable the UAF to begin more timely investigations. In 2003, Panamanian Customs continued an anti-money laundering program at Tocumen International Airport, begun in 2001, to deter currency smuggling by seizing and forfeiting all undeclared funds in excess of \$10,000 from arriving passengers. GOP cooperation in the investigation of the Western Hemisphere's largest Black Market Peso Exchange money laundering scheme was instrumental in the U.S. conviction in 2002 of Yardena Hebroni, owner of Speed Joyeros, a CFZ enterprise. The GOP also revoked the Panamanian residency of Hebroni, an Israeli national,

after she was ordered deported from the United States. Also notable in 2002 was GOP cooperation in the investigation of large-scale political corruption, theft, and embezzlement of Government of Nicaragua funds, and money laundering by former Nicaraguan president Arnoldo Aleman and members of his government and family. The Panamanian portion of the investigation resulted in the freezing of \$7 million of the Nicaraguan funds in Panamanian banks and in the freezing of considerable real estate holdings in Panama.

The GOP identified the combating of money laundering as one of five goals in its five-year National Drug Control Strategy issued in 2002. The Strategy commits the GOP to devote \$2.3 million to anti-money laundering projects, the largest being institutional development of the UAF. Also in 2002, the Institute of Autonomous Panamanian Cooperatives, UAF, and the U.S. Embassy Narcotics Assistance Section cosponsored a roundtable on money laundering that offered practical training to financial institutions to assist them in meeting the reporting requirements under Law No. 42. Both private and public sector officials responsible for enforcement of money laundering laws participated in a number of training events during 2003.

Law No. 50 of July 2003 criminalizes terrorist financing and gives the UAF responsibility for prevention of this crime. There are no legal impediments to the GOP ability to prosecute or extradite suspected terrorists. Panama Public Force (PPF) and the Judicial System have limited resources to deter terrorists, due to insufficient personnel and lack of expertise in handling complex international investigations. On January 18, 2003, the GOP entered into a border security cooperation agreement with Colombia, and also increased funds to the PPF to help secure the frontier. In response to U.S. efforts to identify and block terrorist-related funds, the GOP continues to monitor suspicious financial transactions.

Panama and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. The GOP has also assisted numerous countries needing assistance in strengthening their anti-money laundering programs, including Guatemala, Costa Rica, Russia, Honduras, and Nicaragua. Panama also hosted the Seventh Hemispheric Congress on the Prevention of Money Laundering in August 2003. Panama is active in the multilateral Black Market Peso Exchange Group Directive. In March 2002, the GOP signed the cooperation agreement issued by the working group as part of a regional effort against the black market system. Panama is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD), the Caribbean Financial Action Task Force (CFATF), and the Offshore Group of Banking Supervisors. The UAF is a member of the Egmont Group. Panama is a party to the 1988 UN Drug Convention. Panama is a signatory to 11 of the UN terrorism conventions and protocols. During 2002, the GOP became a party to the UN International Convention for the Suppression of the Financing of Terrorism, and in 2000 signed, but has not yet ratified, the UN Convention against Transnational Organized Crime.

Panama should continue its regional assistance efforts. It should also continue implementing the significant reforms it has undertaken to its anti-money laundering regime, in order to reduce the vulnerability of Panama's financial sector and to enhance Panama's ability to investigate and prosecute financial crime, money laundering, and potential terrorist financing. In particular, the GOP should institute controls over the transfer of bearer bonds.

Papua New Guinea

Papua New Guinea is not a regional financial center. Its banking sector is relatively small and fairly regulated. There are currently no laws against money laundering or terrorist financing. However, according to the Government of Papua New Guinea's (GPNG's) September 2003 report to the UN Counter-Terrorism Committee that monitors implementation of UN Security Council Resolution 1373 (CTC), money laundering in Papua New Guinea will be criminalized pursuant to the proposed "Proceeds of Crime Bill." The bill would obligate financial institutions to retain essential financial

documents for a specific period of time. Covered transactions will include transmission of funds between Papua New Guinea and a foreign country. The proposed legislation also calls for the communication of suspicious information by financial institutions to the police.

According to the September 2003 report to the CTC, the GPNG is also considering amendments to the Criminal Code Act that will cover the collection of funds, recruiting or soliciting of funds from other countries for terrorists/terrorist purposes “which will essentially make terrorist acts criminal offenses.” In addition, the National Intelligence Organization (NIO) is in the process of submitting a Plan of Action on counterterrorism and other transnational crimes. The Plan of Action will focus on coordination and sharing of intelligence. Currently interagency coordination does exist to some extent with regard to narcotics, and task force “Centre-points” have also been established to monitor and share intelligence information on drug trafficking, arms smuggling, human trafficking, and other border concerns. However, “financial tracking” is not yet fully developed.

Papua New Guinea is not a party to any bilateral or multilateral treaties on mutual assistance in criminal matters. The GPNG plans legislation in this area. A proposed review will address changes to modernize the extradition process to conform to international standards. Papua New Guinea is an observer to the Asia/Pacific Group on Money Laundering. Papua New Guinea is not a party to the 1988 UN Drug Convention. Papua New Guinea is a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Papua New Guinea should enact a comprehensive anti-money laundering regime that criminalizes money laundering related to all forms of predicate offenses. Specific antiterrorism legislation implementing UNSCR 1373 and the UN International Convention on the Suppression of the Financing of Terrorism should also be adopted, including providing judicial jurisdiction for the crimes of terrorism and terrorist financing. Papua New Guinea should also become a party to the 1988 UN Drug Convention.

Paraguay

Paraguay is a principal money laundering center, and although accurate figures are not known, the National Anti-Drug Secretariat (SENAD) suspects that narcotics trafficking may generate about 40 percent of laundered funds. Money laundering occurs in both the banking and nonbanking financial systems.

Paraguay is particularly vulnerable to money laundering, as little personal background information is required to open a bank account or to make financial transactions in Paraguay. Paraguay is an attractive financial center for neighboring countries, particularly Brazil. Foreign banks are registered in Paraguay and nonresidents are allowed to hold bank accounts, but current regulations forbid banks from advertising or seeking deposits from outside the country. The Superintendent of Banks audits financial institutions and supervises all banks under the same rules and regulations. However, there are few effective controls over businesses, and there is a large informal economy outside the regulatory scope of the Government of Paraguay (GOP).

Money laundering in Paraguay is facilitated by the multi-billion dollar contraband re-export trade that is centered in Ciudad del Este (CDE), the heart of Paraguay’s informal economy, which lies outside the reach of the government’s authority. The area is well known for arms and drug trafficking as well as crimes against international property rights. There are no controls on the amount of currency that can be brought into or out of the country, and there are no cross-border reporting requirements. Government officials, in both Paraguay and the U.S., also suspect the area to be a source of terrorist financing. Raids in CDE have led to the seizure of arms catalogs, bomb-making materials, extremist Islamic materials, and receipts of wire transfers from Paraguay to the Middle East and the United States. Paraguay has taken some measures to tackle this “gray” economy and to develop strategies to

implement a formal, diversified economy. Important options that Paraguay is considering are “maquila” (assembly line industries) and tourism.

Paraguay continued to experience banking failures, including the closing of the National Workers’ Bank (BNT), the collapse of Banco Aleman in June 2002, and that of Multi-Banco in June 2003. The most spectacular case involved \$16 million diverted from the Central Bank to private accounts allegedly linked to the family of former President Luis Gonzalez Macchi. The GOP is working with the U.S. Treasury and Justice Departments to trace and account for the missing funds, and return them to the Central Bank.

The GOP made significant progress in 2003 with regard to strengthening its anti-money laundering regime. A new law was drafted to improve the effectiveness of Paraguay’s money laundering legislation and establish a single functional Financial Intelligence Unit (FIU). The draft of the new legislation was completed in November 2003 and is scheduled to be formally introduced in Congress in March 2004.

Until the new law is passed, money laundering is considered a criminal offense under Paraguay’s two anti-money laundering statutes, Law 1015 of 1996 and Article 196 of Paraguay’s Criminal Code, adopted in 1997. The existence of the two laws has led to substantial confusion due to overlapping provisions. Under Article 196, the scope of predicate offenses includes only offenses that carry a maximum penalty of five years or more; Law 1015 includes additional offenses. Article 196 also establishes a maximum penalty of five years for money laundering offenses, while Law 1015 carries a prison term of two to ten years. This is particularly significant because, under the new Criminal Code and Criminal Procedure Code, defendants who accept charges that carry a maximum penalty of five years or less are automatically entitled to a suspended sentence and a fine instead of jail time, at least for the first offense. Since a defendant cannot be charged with money laundering unless he or she has first been convicted of the predicate offense, many judges are apparently reluctant to prosecute any defendant on money laundering charges because a sentence has already been issued for a predicate offense. Law 1015 of 1996 also contains “due diligence” and “banker negligence” provisions and applies money laundering controls to nonbanking financial institutions, such as exchange houses. Bank secrecy laws do not prevent banks and financial institutions from disclosing information to bank supervisors and law enforcement entities. Additionally, bankers and others are protected under the anti-money laundering law with respect to their cooperation with law enforcement agencies.

Additional provisions of Law 1015 require banks and financial institutions to know and record the identity of customers engaging in significant currency transactions and to report those suspicious activities to the FIU, the Unidad de Análisis Financiera (UAF) that began operating in 1997 within the Secretary for the Prevention of Money Laundering (SEPRELAD) under the auspices of the Ministry of Industry and Commerce (MIC). However, for many years the UAF has been regarded as ineffective and hampered by a burdensome bureaucratic structure, lack of financial support and the inability to keep trained personnel. The UAF’s weaknesses were reflected in the small number of cases presented to the Public Ministry (Attorney General’s office) for prosecution. Before 2001, only one went to trial and it was dismissed on procedural grounds. The majority of the cases prepared by the UAF were incomplete and were returned to the UAF by prosecutors for more information or investigation. These included most of the 46 suspicious financial transactions by ethnic Arabs that the FIU had compiled immediately following September 11, 2001 which showed millions in dollars of wire transfers from Ciudad del Este to Lebanon. Although charges of money laundering were not presented against any individual, part of the information prepared by the FIU did help buttress the criminal case against one suspected fund-raiser for terrorist organizations. This person was sentenced to six and one-half years in prison for tax evasion.

In an effort to invigorate the investigations against money laundering, the SEPRELAD was transferred in July 2002, by Presidential Decree, to the Attorney General’s Office. While this transfer allowed for

improvement in some areas, particularly in management, progress has been slow. The UAF lacked a standardized form for the filing of suspicious activity reports (SARs), which inhibited the reporting and analysis process. Analysis was also limited because SAR reporting currently is manual, and the UAF analysts had to input the information from the SAR forms into the UAF database. Reporting requirements for large currency transactions were not appropriately enforced. There were also serious concerns with regard to the UAF's personnel, its handling of confidential information, cumbersome record keeping and concerns about possible corruption within the FIU. As a result, in August 2003, SEPRELAD was returned to the direction of the Ministry of Industry and Commerce, and a new director was named. By October, existing personnel began to be vetted and replaced as appropriate.

A complicating factor for Paraguay in the wake of the September 11, 2001 terrorist attacks, was the creation of a parallel investigative unit by the Superintendent of Banks. The intended purpose of this new FIU was principally to coordinate the review of Paraguayan financial institutions' databanks for suspected terrorist activity. Although the banking FIU did conduct some initial investigations, it did not collaborate effectively with the FIU under the Ministry of Industry and Commerce. Moreover, the existence of two FIU's in Paraguay, with duplicative activities, was contrary to international standards established by the Egmont Group, which Paraguay joined in 1998. As defined by the Egmont Group, a financial intelligence unit must be a central, national agency responsible for receiving, analyzing and disseminating financial information. In an effort to rectify the situation, in November 2003 the Superintendent of Banks abolished its FIU equivalent and established instead a banking "Risk Control Division" with the primary responsibility of reviewing national financial institution's records for suspected terrorist activity. The Risk Control Division was also empowered to coordinate information exchange with the Central Banks of other MERCOSUR countries, but was not given authority already contained in the Ministry of Industry and Commerce's FIU to conduct investigative work associated with financial suspicious activity reports.

The new money laundering legislation, if approved by the Paraguayan Parliament following its scheduled presentation in March of 2004, will institute important national reforms. In addition to confirming the FIU-SEPRELAD as Paraguay's lead and sole financial investigative unit, it establishes the FIU-SEPRELAD as an independent secretariat or agency reporting directly to the Office of the President (similar to the local drug enforcement agency, the SENAD). The draft law also establishes money laundering as an autonomous crime punishable by a prison term of five to 20 years. It establishes predicate offenses as any crime that is punishable by a prison term exceeding six months and specifically criminalizes money laundering tied to the financing of terrorist groups or acts. The draft legislation further allows prosecutors to recommend that judges freeze or confiscate assets connected to money laundering and its predicate offenses, and it creates a special asset forfeiture fund (to be administered by a consortium of national governmental agencies) to support programs for crime prevention and suppression, including combating money laundering and related training.

The full range of relevant institutions will be required to report suspicious transactions to the FIU-SEPRELAD and to maintain registries of large currency transactions that equal or exceed \$10,000. Other provisions of the draft law include penalties for failure to file or falsify reports, "know-your-client provisions," and standardized record keeping for a minimum of seven years. The FIU-SEPRELAD will also refer cases as appropriate for further police (SENAD) investigation and to the Attorney General's Office for prosecution. It will also serve as the central entity for related information exchanges with other concerned foreign entities. The law further specifies that the investigative unit of the police is the principal authority for carrying out all antidrug and other financial investigations, and will also have the authority to initiate investigation of cases on its own. Due to allegations of malfeasance and corruption against the Paraguayan Customs Service, there is currently little or no coordination between the two entities.

Under the draft legislation, those institutions that must interact with the FIU-SEPRELAD include, inter alia, banks, financial institutions, insurance agencies, currency exchange houses, securities

companies and brokers (stock exchange), investment companies, money transmitters, administrators of mutual investment and pension funds, credit unions, operators of gambling facilities, real estate agencies, nongovernmental organizations, pawnshops and dealers in jewels, precious stones and metals, automobiles, art and antiques.

With only 10 prosecutors dedicated to financial crimes, Paraguay currently has only limited resources to investigate and prosecute money laundering and financial crimes. Moreover, prosecutors have little experience working with FIU--SEPRELAD, and until the new law is enacted, most judges have little incentive to investigate money laundering cases because many believe that sentencing on predicate offenses is sufficient punishment. Thus, there have not been any successful money laundering prosecutions in Paraguay so far, and improvement is unlikely until the new law becomes a reality.

The GOP ratified the OAS Inter-American Convention on Terrorism on October 30, 2003, and has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. Paraguay is a member the South American Financial Action Task Force (GAFISUD) and underwent a mutual evaluation on anti-money laundering practices in 2003. Paraguay is also a member of the Egmont Group. The GOP has signed the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Hemispheric Drug Strategy. Paraguay is party to the 1988 UN Drug Convention, and participates in Summit of the Americas and CICAD-related meetings on money laundering. The GOP has signed, but not ratified, the OAS Inter-American Convention on Mutual Assistance in Criminal Matters and the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. On December 9, 2003, Paraguay signed the UN Convention against Corruption, which is not yet in force internationally. Paraguay is also a member of the "3 Plus 1" Counterterrorism Dialogue.

While the GOP took a number of positive steps in 2003, there are other initiatives that should be pursued in 2004 to increase the effectiveness of Paraguay's efforts to combat money laundering and terrorist financing. Most important is enactment of the new money laundering law that meets international standards. The GOP should also continue efforts to combat corruption, especially with regard to the Customs service and tax authority, and increase information sharing among concerned agencies when and if the corruption issues are resolved. Paraguay does not have an antiterrorism law or a law criminalizing terrorist financing. While the new money laundering law will increase the GOP's abilities to combat terrorist financing, the GOP should take steps as quickly as possible to ensure that comprehensive antiterrorism legislation is passed. It is essential that the UAF-SEPRELAD receive the financial and human resources necessary to operate as an effective, fully functioning FIU capable of effectively combating money laundering, terrorist financing and other financial crimes.

Peru

Peru is not a major regional financial center nor an offshore money laundering haven. Narcotics-related and other money laundering does occur, but existing laws do not provide reliable or adequate mechanisms to estimate its scale in Peru. Such money laundering may be connected with narcotics-related activity originating in Peru, Colombia, or elsewhere in the region, and may involve proceeds of narcotics sales in the United States. Peru's economy is largely cash-based, facilitating possible money laundering. Peru's economy is approximately 65 percent dollarized, increasing its vulnerability to laundering in U.S. currency.

A number of former government officials, most from the prior Fujimori Administration, are under investigation for corruption-related crimes, including money laundering. These officials have been accused of transferring tens of millions of dollars in proceeds from illicit activities (e.g. bribes, kickbacks, or protection money) into offshore accounts in the Cayman Islands, the United States, and/or Switzerland. The Peruvian Attorney General, a Special Prosecutor, the office of the Superintendent of Banks (SBS) and the Peruvian Congress have conducted numerous investigations,

some of which are ongoing, involving dozens of former Government of Peru (GOP) officials. In 2003, the GOP continued to make strong efforts at uncovering and recovering the millions of U.S. dollars believed to be the proceeds of money laundering activities carried out by Vladimiro Montesinos, former director of the Peruvian National Intelligence Service. There are currently five known money laundering cases underway in the Peruvian court system, but no convictions for money laundering offenses have occurred to date in Peru.

In 2002 the GOP strengthened its anti-money laundering regime by creating a financial intelligence unit (FIU), expanding the type of institutions required to file suspicious transaction reports, increasing the number of predicate crimes, criminalizing willful blindness, and reinstating reporting requirements for large cash transactions. Prior to 2002, Peru had a limited anti-money laundering legislative and regulatory framework. The previous system criminalized only the laundering of proceeds directly associated with narcotics trafficking and “narcoterrorism.” The new law builds on the 1991 banking law, the 1996 General Law of the Financial and Insurance System and Organic Law of the Superintendency of Banking and Insurance (No. 26702), and 1998 implementing regulations. The new law is very brief, however, and lacks implementing regulations. Furthermore, only certain financial institutions are regulated under the money laundering law, and no regulatory control is

On April 12, 2002, President Toledo signed Law 27693, which provided for the creation of Peru’s first FIU, the Unidad de Inteligencia Financiera (UIF). The UIF is an autonomous body located under the Office of the Prime Minister, and is responsible for receiving, analyzing, and disseminating suspicious transaction reports. Prior to Law 27693, all unusual or suspicious financial transactions were reported directly to the Office of the Attorney General, and the information was then shared with the Financial Investigative Office of the Peruvian National Police Directorate of Counternarcotics (DINANDRO). Under the new law, the UIF reports information on possible crimes to the Attorney General’s office.

Also, only banks and financial institutions were required to file suspicious transaction reports under the old legislation. Now stock funds or brokers, the customs agency, casinos, auto dealers, construction or real estate firms, and other sectors, in addition to banks and financial institutions, are all required to report suspicious transactions to the UIF within 30 days. These entities are also required to maintain registries of suspicious activity reports (SARs). The UIF is also empowered to request financial transaction information from exchange houses, metal and antiques traders, and travel agencies.

Law 27693 also reinstated reporting requirements for large cash transactions. An amendment to the previous anti-money laundering law had required the reporting of currency transactions over 30,000 soles (about \$10,000), but this requirement was suspended in August 1998, one month after the amendment went into effect. This amendment did not apply to institutions other than banks or financial companies. The new money laundering law requires the reporting of individual cash transactions exceeding \$10,000 or transactions totaling \$50,000 in one month. Nonfinancial institutions, such as exchange houses, casinos, lotteries or others, must report individual transactions over \$2,500 or monthly transactions over \$10,000. Private businesses, banks, and financial companies must report these transactions to the UIF, and major institutions are required to appoint supervisory-level compliance officials to ensure that reporting requirements are met. Law 27693 does not address the issue of reporting the transportation of cash or monetary instruments into or out of Peru.

On June 20, 2002, a new law was passed, Law 27765, that expands the predicate offenses for money laundering to include the laundering of assets related to serious crimes, such as drug trafficking, terrorism, corruption, trafficking of persons, and kidnapping. However, Peru has not enacted legislation that criminalizes the financing of terrorism. The penalties for money laundering were also altered. Instead of a life sentence for the crime of laundering money, the new law sets prison terms of to fifteen years for convicted launderers, with a minimum sentence of twenty-five years for cases linked to narcotics trafficking, terrorism, or laundering through banks or financial institutions. In

addition, the revised Penal Code criminalizes “willful blindness,” the failure to report money laundering conducted through one’s financial institution when one has knowledge of the money’s illegal source, and imposes a three to six year sentence for failure to file suspicious transaction reports.

The UIF began operations in June 2003. A director was appointed in April 2003 and the unit had hired approximately 20 staff members by the end of 2003. The UIF secured approximately 5 million in initial funding from a government fund, “Fedadoi,” of monies recovered after having been diverted or stolen under the prior Fujimori regime. The UIF began receiving SARs from financial sector institutions on September 1; from public notaries on September 22; from casinos, lotteries and other gaming institutions on October 22; and from all other obligated entities between November 10 and December 19, 2003. The UIF had received roughly 50 SARs by December 2003. Senior UIF staff has visited the U.S., Guatemala, Colombia and other countries to observe the operations of other FIUs.

In spite of significant advancements in Peru’s money laundering legislation, the powers of the UIF are still limited. On November 6, 2003, the UIF proposed introduction of a draft law to modify Law 27693, the law that created Peru’s UIF. The draft law expands the budgetary sources of the UIF and increases the number of entities that are required to file or maintain reports. The new law, however, does not grant the UIF the ability to impose sanctions for failure to report. Bank secrecy is protected by the Peruvian constitution, and the UIF is in the process of proposing an amendment that would grant it the ability to lift bank secrecy provisions and obtain further account information of persons who are the subject of suspicious transaction reports.

Peru currently lacks comprehensive and effective asset forfeiture legislation. The Financial Investigative Office of the Peruvian National Police Directorate of Counter narcotics has seized numerous properties over the last several years, but few were turned over to the police to support counternarcotics efforts. While Peruvian law does provide for asset forfeiture in money laundering cases, and these funds can be used in part to finance the UIF, there exists no clear mechanism to distribute seized assets among government agencies. The government’s “Fedadoi” fund currently holds around 75 million in monies recovered after having been stolen or diverted during the Fujimori administration.

Terrorism is considered a problem in Peru, which is home to the terrorist organization Shining Path. Although the Shining Path has been designated by the United States as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act and under Executive Order (E.O.) 13224, and the United States and 100 other countries have issued freezing orders against its assets, the GOP has no legal authority to quickly and administratively seize or freeze terrorist assets. In the event that such assets are identified, the Superintendent for Banks must petition a judge to seize or freeze them. A final judicial decision is then needed to dispose of or use such assets. Foreign Ministry Officials are working with other GOP agencies to complete the necessary legal revisions that will permit asset-freezing actions.

The Office of the Superintendent of Banks routinely circulates to all financial institutions in Peru updated lists 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 Taliban, and al-Qaida, as well as those on the list of Specially Designated Global Terrorist Entities designated by the United States pursuant to E.O. 13224 (on terrorist financing). To date, no assets connected to designated individuals or entities have been identified, frozen, or seized.

Peru ratified the UN International Convention for the Suppression of the Financing of Terrorism on November 10, 2001, and the OAS Inter-American Convention on Terrorism on June 4, 2003. Peru is a party to the 1988 UN Drug Convention. On January 23, 2002, Peru deposited its instrument of ratification for the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. Peru is a member of the Organization of American States Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering, and the South American

Financial Action Task Force (GAFISUD). Peru and the U.S. Government signed a new extradition treaty in July 2001. The GOP ratified the treaty in October 2002 and the United States completed its ratification on January 23, 2003.

The GOP has made serious advancements in strengthening its anti-money laundering regime in 2003. However, much progress is still required. Anti-corruption efforts in Peru should be a priority, and the need for strong confidentiality protocols for the UIF should be stressed. The GOP should enact legislation that criminalizes the financing of terrorism and allows for administrative as well as judicial blocking of terrorist assets.

Philippines

The Philippines is a major financial center in the Pacific. In the past few years, the illegal drug trade in the Philippines reportedly has evolved into a billion-dollar industry. Additionally, the Philippines has experienced an increase in foreign organized criminal activity from China, Hong Kong, and Taiwan. Insurgency groups operating in the Philippines fund their activities through the trafficking of narcotics and arms and engage in money laundering through alleged ties to organized crime. Corruption of government officials is also a source of laundered funds.

In June 2000, the Financial Action Task Force (FATF) placed the Philippines on the list of noncooperative countries and territories (NCCT) in the fight against money laundering. The major deficiencies cited by the FATF were excessive bank secrecy provisions and lack of a basic set of anti-money laundering regulations, including customer identification and record keeping requirements. Following its placement on the NCCT list, FinCEN, the U.S. financial intelligence unit, issued an advisory to all U.S. financial institutions instructing them to “give enhanced scrutiny” to transactions involving the Philippines; the advisory is still in effect.

With the March 2003 enactment of the amendments to the Anti-Money Laundering Act of 2001 (AMLA), the Government of the Republic of the Philippines (GORP) made important progress in developing its anti-money laundering and terrorist financing regime. The FATF deemed the amendments to have sufficiently addressed the main legal deficiencies in the Philippines anti-money laundering regime and the international organization decided not to formally apply countermeasures. In June 2003, FATF invited the Philippines to submit an implementation plan to enable FATF to evaluate the execution of its legislative changes. The GORP is currently in the implementation phase. The Philippines will remain on the NCCT list until sufficient implementation of the legal and regulatory framework has taken place.

The major accomplishments of the Amendments to the AMLA are the following: a). Lowered the threshold amount for covered transactions (cash or other equivalent monetary instrument) from 4,000,000 pesos to 500,000 pesos (\$80,000 to \$10,000) within one (1) banking day. b). Expanded financial institution reporting requirements to include the reporting of suspicious transactions, regardless of amount. c). Authorized the Central Bank (Bangko Sentral ng Pilipinas or BSP) to examine any particular deposit or investment with any bank or nonbank institution in the course of a periodic or special examination (in accordance with the rules of examination of the BSP), to ensure institution compliance with the Anti-Money Laundering Act. d) Deleted the prohibitions of the Anti-Money Laundering Council to examine particular deposits or investments opened or created before the Act. The AMLC is now able to respond to a request from foreign authorities regarding deposits and investments made prior to the coming into effect of the AMLA.

The Anti-Money Laundering Act 2001 (AMLA) criminalizes money laundering, an offense defined to include the conduct of activity involving the proceeds of any unlawful activity, and imposes penalties that include a term of imprisonment of up to seven years. The Implementing Rules and Regulations (IRR) for the Anti-Money Laundering Act were enacted in April 2002.

Money Laundering and Financial Crimes

The Anti-Money Laundering Council (AMLC), the Philippine financial intelligence unit (FIU), was established under the AMLA. The AMLC is comprised of the Governor of the Central Bank, Commissioner of the Insurance Commission, and the Chairman of the Securities and Exchange Commission. By law, the AMLC Secretariat is an independent agency that is responsible for receiving, maintaining, analyzing, and evaluating covered suspicious transactions, provides advice and assistance to relevant authorities, and issues publications. In practice however, the AMLC is experiencing operational difficulties.

The AMLC is authorized, among other things, to receive suspicious activity reports from covered institutions and to freeze assets alleged to be connected to money laundering. However, the AMLC is unable to instantly freeze bank accounts. By law, the AMLC must wait for Suspicious Transaction Reports (STRs) to be filed, and then establish probable cause. Once probable cause is established, the AMLC is able to freeze an account for a period of 15 days. The AMLC is required to obtain a court order to be able to examine an account. A drawback to this system, especially in connection with terrorist financing, is that terrorism has not yet been defined as a crime. According to the GORP, in its first year of operations the AMLC received 299 STRs and 186,621 Covered Transaction Reports (CTRs).

An interagency Financial Systems Assessment Team (FSAT) conducted an on-site evaluation of the Philippines' anti-money laundering/counterterrorist financing (AML/CTF) regime in October 2003. The FSAT team identified GORP vulnerabilities in the areas of financial regulatory practice, FIU investigative and information technology resources, law enforcement, and prosecution that inhibit the full exploitation of the GORP's newly amended anti-money laundering legislation and Implementation Plan and made specific recommendations for assistance and training.

Despite major improvements to the legal framework, there is an area of concern regarding bank compliance and bank secrecy that has not yet been resolved. The BSP does not have a mechanism in place to assure that the financial community is adhering to the reporting requirements. While bank secrecy provisions to the BSP's supervisory functions were lifted in Section 11 of the AMLA, implementation appears to be a problem. Due to Philippine "privacy issues," examiners of the BSP are not allowed to review documents held by covered institutions in order to determine if the covered institutions are complying with the reporting requirement. They are only allowed to ask the AMLC, as a result of their examination, if an STR has been filed. If the AMLC determines one was not filed, then it has the responsibility to make inquiries of the covered institution. This process is entirely too cumbersome for due diligence.

The Philippines is a member of the Asia/Pacific Group on Money Laundering and is a party to the 1988 UN Drug Convention. The Philippines and the United States have a Mutual Legal Assistance Treaty that entered into force in 1996. The GORP has signed and ratified the UN Convention against Transnational Organized Crime.

The GORP became a party to, the UN International Convention for the Suppression of the Financing of Terrorism on January 7, 2004. An Anti-Terrorism Bill covering the financing of terrorism is pending in both Houses of the Congress but a vote on the legislation is not expected until after the May 2004 general election. In the absence of an Anti-Terrorism Law, the Anti-Money Laundering Council is able to freeze funds and transactions identified with or traced to designated terrorist organizations and/or individuals upon request of the United Nations Security Council, the U.S. and other foreign governments.

The Government of the Republic of the Philippines should continue to enhance and implement its newly amended anti-money laundering legislation. In particular, the GORP must effectively implement the laws and procedures it has put in place. The GORP should ensure that adequate financial and human resources are in place to properly equip and train law enforcement and regulatory

personnel. Finally, the GORP should enact and implement legislation that criminalizes terrorism and terrorist financing.

Poland

Its location between the former Soviet Union republics and countries of the European Union and the lucrative markets beyond places Poland directly in the path of narcotics-traffickers and organized crime groups. Narcotics trafficking, organized crime activity, auto theft, smuggling, extortion, counterfeiting, burglary and other crimes generate criminal proceeds in the range of \$2-3 billion yearly, according to Polish government estimates. Poland's banks serve as transit points for the transfer of criminal proceeds. Polish insurance companies and casinos may likewise be venues for money laundering activity. The unregistered or gray economy, used primarily for tax evasion, is estimated at between 14 and 20 percent of GDP; the Government of Poland (GOP) believes the black economy is only 1 percent of GDP.

The National Security Strategy of Poland has labeled the anti-money laundering effort as a top priority. In June 2001, the November 2000 Act on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources, often referred to as "the Act of 16 November," came into force. This law broadened the offense of money laundering to encompass all serious crimes, and increased penalties. It also contains "safe harbor" provisions that exempt financial institution employees from normal restrictions on the disclosure of confidential banking information. The "Act of 16 November" also provided for the creation of a financial intelligence unit (FIU), the General Inspectorate of Financial Information (GIIF), to collect and analyze large and suspicious transactions. GIIF is housed within the Ministry of Finance and became operational in July 2001. In 2002, Poland amended its customs law to require the reporting of any cross-border movement of more than 10,000 euro in currency or financial instruments.

Article 299 of the Criminal Code criminalizes money laundering. The article places Poland in the group of countries with the "all crimes" approach to the predicate offense, addresses self-laundering, and criminalizes tipping off. The Parliament passed amendments to the law on countering the trading in assets from illegal or unknown sources and on countering the financing of terrorism on March 14, 2003. The law requires that GIIF be notified about all financial deals exceeding 15,000 euros. A major weakness of Poland's former money laundering regime was that it did not cover many nonbank financial institutions that had traditionally been used for money laundering. Under the new regime, the scope of institutions subject to identity verification, record keeping, and suspicious transaction reporting has been widened. Financial institutions subject to the reporting requirements include banks, the National Depository for Securities, the post offices, auction houses, antique shops, brokerages, casinos, insurance companies, investment and pension funds, leasing firms, private currency exchange offices, real estate agencies, and notaries public. Legal professionals and accountants are still not covered by the legislation. In addition, financial institutions are now required to put internal anti-money laundering procedures into effect—a process that is overseen by GIIF. The GIIF is also working with the private sector to develop a better risk profile in Poland, including taking measures to prevent the misuse of charities.

Additional amendments to the money laundering law were prepared, and underwent a first reading before the Sejm on December 11, 2003. These amendments were to address remaining areas which were not fully in line with the Second European Union (EU) Directive. Poland will become an EU member on May 1, 2004, and has worked diligently to bring its laws into full conformity with EU obligations. These amendments broaden the scope of institutions obligated to report to include lawyers, auditors and charities; add corporate criminal liability to the penal code; and give the GOP authorization to act against terrorism financing. Poland is still working on amendments to the criminal code, which would further improve the government's ability to seize assets.

In its first year of existence, GIIF received over 350 suspicious transaction reports (STRs). In 2002, GIIF received 670 STRs, from which prosecutors prepared 70 cases. In the first eleven months of 2003, GIIF received 621 STRs, of which it forwarded 134 to prosecutors. Most of the STRs in 2003 came from commercial banks and insurance companies. To date, there have been over 100 cases of money laundering, 20 in the first quarter of 2003 alone. There have been only two convictions under the money laundering law, although investigations begun by GIIF have led to convictions for other offenses. GIIF is authorized to put a suspicious transaction on hold for 48 hours. The Public Prosecutor then has the right to suspend the transaction for three months further, pending a court decision. In the first nine months of 2003, GIIF suspended 14 transactions, and blocked eight accounts worth 12.5 million euro.

GIIF is upgrading its computer system to incorporate an expected two million transactions per month, including currency transaction reports exceeding 15,000 euros, and with provision for banks to submit reports securely and electronically. This new system should be complete and ready to go on line by July 1, 2004. GIIF also does on-site training and compliance-monitoring investigations. By late 2003, GIIF staff had completed on-site compliance investigations of all 61 commercial banks in Poland, and undertook a second, stricter control cycle. (The number of commercial banks has decreased and stands at 61; there are also 700 cooperative banks, which are very small and are grouped together for supervision purposes.) However, there is a lack of coordination between GIIF and other supervisory bodies, so there are some overlapping responsibilities, and some gaps in coverage.

There are two main police units that deal with the detection and prevention of money laundering. These are the General Investigative Bureau and the Unit for Combating Financial Crime. Both units cooperate well with GIIF overall, although there is a stated need for coordination at the higher levels. The Polish Code of Criminal Procedure, Article 237, allows for some Special Investigative Measures. This is problematic since money laundering investigations are not specifically covered, although it is possible that organized crime provisions might apply in some cases.

The GOP also recently created an office of antiterrorist operations within the National Police to coordinate and supervise regional antiterrorism units, as well as to train local police in antiterrorism measures. However, Poland has not criminalized terrorist financing. The Ministry of Justice has completed draft amendments to the criminal code that would criminalize terrorist financing as well as elements of all terrorism-related activity, and the amendments have been presented to the Minister of Justice. The next step is an inter-ministerial discussion on the amendments, which is scheduled to take place in early 2004.

Poland is a party to the 1988 UN Drug Convention, the European Convention on Extradition and its Protocols, the European Convention on Mutual Legal Assistance in Criminal Matters, and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, which went into full effect on April 1, 2003. In November 2001, Poland ratified the UN Convention against Transnational Organized Crime, which was in fact a Polish initiative. In 2003, Poland ratified the UN Convention for the Suppression of the Financing of Terrorism. Poland also signed and expects to ratify shortly the UN International Convention for the Suppression of Terrorist Bombings.

As a member of the Council of Europe, Poland participates in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and has undergone first and second round mutual evaluations by that group. GIIF has been an active participant in the Egmont Group since it joined in 2002, and in FIU.net, the EU-sponsored information exchange network for FIUs.

A Mutual Legal Assistance Treaty between the United States and Poland came into force in 1999. In addition, Poland has signed bilateral mutual legal assistance treaties with Sweden, Finland, Ukraine, Lithuania, Latvia, Estonia, Germany, Greece and Hungary. As Polish law requires GIIF to have memoranda of understanding (MOU) with other international competent authorities before it can

participate in information exchanges, GIIF has been diligent in signing MOUs with its counterparts in other countries. GIIF has signed 20 MOUs in the past 18 months. The GIIF-FinCEN MOU was signed in fall 2003. For the first eleven months of 2003, 201 requests were received by GIIF from foreign authorities, and GIIF made 80 requests to foreign authorities; three cases were opened using foreign information.

The GOP has taken a number of steps to put in place a comprehensive anti-money laundering regime to meet international standards. Improvements could further be made by promoting training at the sector level and by working to better coordinate investigations between relevant investigating agencies and prosecutors, so as to obtain an improved record of prosecutions and convictions. The GOP should also pass specific antiterrorist financing legislation.

Portugal

Portugal is an entry point for narcotics transiting into Europe, and officials of the Government of Portugal (GOP) indicate that most of the money laundered in Portugal is narcotics-related. GOP officials also report that currency exchanges, wire transfers, and real estate purchases are used for laundering criminal proceeds.

Portugal has a comprehensive anti-money laundering regime that criminalizes money laundering and other serious offenses, including terrorism, arms trafficking, kidnapping, and corruption. All cross-border movements of currency that exceed 12,000 euros must be declared. All financial institutions, including insurance companies, must identify their customers, maintain records for a minimum of ten years, and demand written proof from customers regarding the origin and beneficiary of transactions that exceed 12,000 euros. Nonfinancial institutions, such as casinos, property dealers, lotteries, and dealers in high-value assets, must also identify customers engaging in large transactions, maintain records, and report suspicious transactions to the Office of the Public Prosecutor.

In February 2002, the law governing money laundering (Act 10/2002) was brought into force. This law extended the list of entities obliged to report large transactions, to include account officers, external auditors, notaries, registrars, and money carriers. It also includes any other entities involved with the purchase and sale of real estate or commercial entities; operations connected with funds, securities, or other assets belonging to clients; opening or management of savings bank accounts or securities accounts; creation, exploitation, or management of companies, trust funds, or similar structures; and the execution of any financial operation. In addition, the obligated entities have the duty to report any suspicious operation, independent of the transaction amount.

Act 10/2002 also expands money laundering to include as predicate crimes arms trafficking, extortion, prostitution, trafficking in nuclear materials, trafficking in persons, trafficking in human organs or tissues, child pornography, trafficking in listed species, and tax fraud.

Portugal has established regulatory agencies, including the Central Bank of Portugal, the Portuguese Insurance Institution, the Gambling General Inspectorate, and the Economic Activities General Inspectorate, to monitor and enforce the reporting requirements of the obliged entities.

Portugal's incorporation of the 2001 European Union (EU) Money Laundering Directive has not been completed. The Portuguese parliament has given the initial approval to the new law and the draft is currently under review by the committee and must be voted on by the whole assembly again. Portugal expects the law to take effect in early 2004.

When money laundering is suspected, financial institutions must cease processing the transaction in question and report it to the judicial authority and the Office of the Public Prosecutor. The Public Prosecutor then forwards suspicious transaction reports (STRs) for analysis to the Central Unit for Money Laundering Investigation (SCIB), which acts as the financial intelligence unit (FIU) for

Portugal. Often, reporting entities, usually banks, file their formal report with the Prosecutor's Office while informally reporting the case directly to the SCIB. If money laundering is indicated, the Portuguese Judicial Police will conduct an investigation. The SCIB consists of ten criminal investigation officers. The SCIB reported receiving 251 STRs in 2001 and 256 STRs in 2002, from banks and other financial entities. A total of 1,013 STRs have been filed between 1998 and 2002.

Portuguese laws provide for the confiscation of property and assets connected to money laundering, and authorize the Judicial Police to trace illicitly obtained assets, (including those passing through casinos and lotteries), even if the predicate crime is committed outside of Portugal. Act 10/2002 has also eased prosecutions. Police may now request files of individuals under investigation and, with a court order, can obtain and use audio and videotape as evidence in court. The law allows the Public Prosecutor to request that a lien be placed on the assets of individuals being prosecuted, in order to facilitate asset seizures related to narcotics and weapons trafficking, terrorism, and money laundering.

The 2002 law shifted the burden of proof in cases of criminal assets forfeiture from the government to the defendant; an individual must prove that his assets were not obtained as a result of his illegal activities. The law defines criminal assets as those owned by an individual at the time of indictment and thereafter. The law also presumes that assets transferred by an individual to a third party within the previous five years are still his, unless proven otherwise.

Portugal has comprehensive legal procedures that enable it to cooperate with foreign jurisdictions and share seized assets. The financial sector cooperates fully with the Judicial Police and the Public Prosecutor. Between January and November of 2002, the Judicial Police conducted 30 investigations of money laundering in connection with narcotics trafficking. Those investigations resulted in the arrest of seven individuals and the confiscation of approximately \$3.5 million.

The Portuguese Madeira Islands International Business Center (MIBC) has a free trade zone, an international shipping register, offshore banking, trusts, holding companies, stock corporations, and private limited companies. The latter two business groups, of which there are approximately 6,500 companies registered in Madeira, are similar to international business corporations (IBCs). All entities established in the MIBC will remain tax exempt until 2011. Twenty-seven offshore banks are currently licensed to operate within the MIBC. The Madeira Development Company supervises offshore banks.

Companies can also take advantage of Portugal's double taxation agreements. Decree-Law 10/94 permits existing banks and insurance companies to establish offshore branches. Applications are submitted to the Central Bank of Portugal for notification, in the case of EU institutions, or authorization, in the case of non-EU or new entities. The law allows establishment of "external branches" that conduct operations exclusively with nonresidents or other Madeiran offshore entities, and "international branches" that conduct both offshore and domestic business. Although Madeira has some local autonomy, its offshore sector is regulated by Portuguese and EU legislative rules, and it is supervised by the competent oversight authorities. Exchange of information agreements contained in double taxation treaties allow for the disclosure of information relating to narcotics or weapons trafficking. Bearer shares are not permitted.

In August 2003, Portugal passed Act 52/2003, which pertains to the fight against terrorism. The 2003 law specifically defines money laundering and criminalizes the transfer of funds related to the commission of terrorist acts. Additional legislation on terrorist financing is being drafted for consideration by parliament in 2004. Portugal has created a Terrorist Financing Task Force that includes the Ministries of Finance and Justice, the Judicial Police, the Security and Intelligence Service, the Bank of Portugal and the Portuguese Insurance Institution.

Portugal has applied all of the FATF recommendations on terrorist financing. Names of individuals and entities included on the UN 1267 sanctions consolidated list, or that the U.S. and EU have linked

to terrorism, are passed to private sector organizations through the Bank of Portugal, Stock Exchange Commission, and the Portuguese Insurance Institution. In practice, the actual seizure of assets would only occur once the European Union's clearinghouse process agrees to the EU-wide seizure of assets of terrorists and terrorist-linked groups. Portugal is actively cooperating in the search and identification of assets used for terrorist financing. To date, no significant assets have been identified or seized.

Portugal is a member of the Council of Europe, the European Union, and the Financial Action Task Force (FATF). Portugal held the FATF presidency from 1999 to 2000. Portugal is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Portugal is a party to the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, and became a party to the UN International Convention for the Suppression of the Financing of Terrorism on October 18, 2002. The Money Laundering Investigation Unit of Portugal's Judicial Police is a member of the Egmont Group.

Portugal has put into place a comprehensive and effective regime to combat money laundering. The GOP's passage of new laws in 2002 strengthen its ability to investigate and prosecute, and the more recent steps taken in 2003 seek to extend the regime's reach to terrorist financing. The GOP should continue to exercise due diligence over its offshore sector, and closely monitor domestic nonbank financial institutions.

Qatar

Qatar has a relatively small population (approximately 600,000 residents), with an extremely low rate of general and financial crime. The financial sector, though modern, is limited in size, and subject to strict regulation by the Qatar Central Bank (QCB). There are 15 licensed financial institutions, and two Islamic banks; 16 exchange houses; and three investment companies. Although Qatar is a cash-intensive economy, cash placement by money launderers is believed by authorities to be a negligible risk due to the close-knit nature of the society in Qatar and the rigorous "know your customer" procedures required by Qatari law.

On September 11, 2002, the Emir of the State of Qatar signed the Anti-Money Laundering Law. According to Article 28 of the law, money laundering offenses involve the acquisition, holding, disposing of, managing, keeping, exchanging, depositing, investing, transferring, or converting of funds from illegal proceeds. The law imposes penalties of imprisonment of five to seven years, in addition to fines. The law expanded the powers of confiscation of proceeds gained from the commission of a crime, and instrumentalities used to commit a crime, to include the identification and freezing of assets as well as the ultimate confiscation of the illegal proceeds upon conviction of the defendant for money laundering.

The law requires all financial institutions to report suspicious transactions to the QCB and retain records for up to 15 years. The law also gives the QCB greater powers to inspect suspicious bank accounts, and grants the authorities the right to confiscate money in illegal transactions. Article 17 permits Qatar to extradite convicted criminals in accordance with international or bilateral treaties.

The Anti-Money Laundering Law established the National Anti-Money Laundering Committee (NAMLC) to oversee and coordinate money laundering combating efforts. It is chaired by the Deputy Governor of the QCB, in addition to seven other members from the Ministries of Interior, Civil Affairs and Housing, Economy and Commerce, Finance, Justice, and a representative from the QCB. The NAMLC is in the process of setting up its financial intelligence unit (FIU).

In addition to reporting suspicious transactions, financial institutions (including businesses conducting hawala transactions) must report all cash transactions of 30,000 Qatari rials (approximately \$10,000) or above to the QCB. In 2002, the threshold was raised to QR100,000 (approximately \$33,000). Any

transaction of QR100, 000 or higher will be investigated by the QCB in coordination with the Ministries of Justice and Interior. All financial institutions also must identify the person entering into a business relationship or conducting a transaction.

All accounts must be opened in person. (Only Qatari citizens, legal foreign residents, and citizens of other Gulf Cooperation Council (GCC) states are permitted to open bank accounts.) In January 2002, QCB issued Circular Number 9 regarding the Combat of Money Laundering and Financing of Terrorism. This circular was designed to increase the awareness of all banks operating in Qatar with respect to anti-money laundering efforts, by explaining money laundering schemes and monitoring suspicious activities.

Qatar has taken steps to combat the financing of terrorism, including requiring banks to freeze the assets of the individuals and entities listed on the UN 1267 Sanctions Committee's consolidated list. In 2002, the GOQ established a national committee, to review the consolidated designation lists and to recommend any necessary actions against individuals or entities found in Qatar. On August 24, 2003, the Anti-Money Laundering law was amended (amendment 21/2003) and published in the official gazette. Amendment 21 revised three articles in the anti-money laundering law. Article 2 was amended to broaden the definition for money laundering to include any activities related to terrorist financing. Article 8 added the customs and ports authority to the NAMLC. Article 12 authorized the Central Bank governor to freeze suspicious accounts up to ten days and to inform the attorney general within three days of any action taken. The Attorney General may renew or nullify the freeze order for a period of up to three months. After this process, a freeze order may not be renewed unless authorized by court order.

Qatar's charities are under the direct supervision of the Ministry of Civil Service Affairs and Housing, as detailed in Law No. 8 of 1998 regarding private associations and institutions. Among the requirements of this law are: 1. registration; 2. regular government audits; 3. government approval for all disbursements; and 4. government inspection of facilities, documents, and records.

Article 37 of Law Number 8 of 1998, concerning the establishment and governance of private associations and institutions, stipulates that the Ministry of Awqaf (Endowments) and Islamic Affairs shall oversee and monitor all the activities of private institutions within the boundaries that are regulated by executive provisions. The Ministry may examine the institution's books, records, and documents that are related to its activities, and it may amend its bylaws. The institution shall provide the Ministry with any information, documents, or other data it requests.

According to Article 1 of Law 15 of 1993, banks practicing in offshore business shall be formed either as joint stock companies having their head offices in the State of Qatar or as branches of Qatari or foreign banks.

The QCB, Public Prosecutor and the Criminal Investigation Division (CID) of the Ministry of Interior are the principal entities that have the responsibility for investigating and prosecuting money laundering cases. The QCB receives all suspicious transaction reports and conducts an initial analysis. The QCB obtains additional information from the banks and other government ministries before determining whether to forward the suspicious report to the Ministry of Interior. The Public Prosecutor and CID work closely on all criminal cases, although in financial cases they often seek the assistance of the QCB. There are no specialized units within the Public Prosecutor or CID's offices that initiate or investigate financial crimes.

Qatar is in the process of establishing its financial intelligence unit (FIU). The Qataris have little financial crimes investigative experience. The Government of Qatar (GOQ) is working to increase the ability of local authorities to investigate financial crimes, particularly as outlined in the new money laundering law.

Qatar does not yet have any cross-border reporting requirements for financial transactions. Immigration and customs authorities are reviewing this policy and are increasingly interested in expanding their ability to detect trade-based money laundering. The Government of Qatar (GOQ) continues to investigate a seizure which occurred in November 2002 of approximately \$400,000 worth of gold which had been smuggled into the country.

Qatar participates in the Financial Action Task Force (FATF) activities through its membership within the GCC. Qatar is a party to the 1988 UN Drug Convention. Qatar 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.

The amendments to Qatar's new money laundering law to address terrorist financing crimes are indications of Qatar's commitment to combating money laundering and terrorism financing. Implementation and enforcement of the new law and regulations are essential to the success of Qatar's efforts. Qatar has demonstrated a willingness to work with other countries' FIUs in the fight against financial crimes. Qatar should continue to work to ensure that law enforcement, prosecutors, and customs authorities are active in recognizing and pursuing various forms of money laundering.

Romania

Romania continues to develop its anti-money laundering regime. Its geographic location makes it a natural transit country for trafficking in narcotics, arms, stolen vehicles, and persons and, therefore, vulnerable to money laundering. The majority of crimes generating illicit funds in 2003 were tax/VAT fraud and tax evasion. Romania also has one of the highest occurrences of online credit card fraud in the world. As in other countries in Eastern Europe, corruption and the presence of organized crime activity facilitate money laundering. The Romania National Office Against Money Laundering estimates \$1.64 billion euros (\$2.02 billion) has been laundered in Romania since 2001. Money laundered comes primarily from domestic criminal activity carried out by international crime networks. Romania saw a surge in organized crime activity during the first part of 2003. Transparency International placed Romania in the top tier of the world's most corrupt countries. The proceeds of financial crimes and from the smuggling of cigarettes, alcohol, coffee, and other dutiable commodities are also believed to be laundered in Romania. From Romania, most of the laundered funds go to Cyprus (222 million euros in 2003).

Romania criminalized money laundering with the adoption in January 1999 of Law No. 21/99 "On the Prevention and Punishment of Money Laundering." The law became effective in April 1999 and mandates provisions for customer identification; record keeping; reporting transactions of a suspicious or unusual nature; currency transaction reporting for transactions over 10,000 euros; a financial intelligence unit (FIU), known as the National Office for the Prevention and Control of Money Laundering (NOPCML); and internal anti-money laundering procedures and training for all domestic financial institutions covered by the law. The list of entities subject to money laundering controls includes banks, nonbank financial institutions, attorneys, accountants, and notaries. However, in practice, these controls have not been as rigorous as those imposed on banks. There exists some natural discomfort on the part of the banking industry regarding requirements to assist law enforcement, but this has not stopped the Government of Romania (GOR) from establishing further measures, such as Norm No. 3, "Know Your Client." These norms, issued in February 2002 by the National Bank of Romania, bring Romania's norms into line with the Basel Committee's "Customer Due Diligence for Banks Supervision in the insurance sector has recently been tightened.

In December 2002, the Law on the Prevention and Sanctioning of Money Laundering went into effect, changing the list of predicate offenses to the "all-crimes" approach and requiring that every banking operation involving a sum exceeding 10,000 euros be reported to the NOPCML and monitored. The law also revises certain provisions in the former law. In addition, the new law expands the number and

types of entities required to report to the NOPCML. Some of these new entities include art dealers, travel agents, privatization agents, postal officials, money transferors, and real estate agents. The new law also provides for both suspicious transaction reports (STRs) and currency transaction reports (CTR), with the CTR amounts conforming to European Union (EU) standards. The know your customer identification requirements have also been honed so that identification of the client becomes necessary upon both the beginning of a relationship and upon single or multiple transactions meeting or approaching a 10,000 euro standard. In accordance with a new national strategy on money laundering, lawyers are now obligated to report to the NOPCML. In addition, and in line with the Second EU Directive, tipping off has been prohibited. Romanian law permits the disclosure of client and ownership information to bank supervisors and law enforcement authorities, and protects banking officials with respect to their cooperation with law enforcement.

The NOPCML receives and evaluates STRs as well as CTRs. The law also provides for feedback to be given, upon request, to NOPCML from the General Prosecutor's Office, and for NOPCML to participate in inspections and controls in conjunction with supervisory authorities. In 2002, MOPCML received 433 suspicious transaction reports filed on over 1,600 persons. During the first three-quarters of 2003, NOPCML had received 342 reports and investigated more than 1,500 persons. Of these, 256 cases were referred to the Prosecutor's Office. However, efforts to prosecute these cases have been hampered by delays in reporting suspicious transactions, by a lack of resources in some regions, and by insufficient training in conducting complex historical financial investigations. The Law on the Prevention and Sanctioning of Money Laundering increased the powers of NOPCML, but it did not provide for an increase in administrative capacity. Romania has been working closely with Italy to improve the efficiency and effectiveness of NOPCML. Romanian law has some, but limited, provisions for asset forfeiture in the Law on Combating Corruption, No. 78/2000, and the Law on Combating Tax Evasion, No. 87/1994. The Directorate of Economic and Financial Crimes of the national police also has a mandate to pursue money laundering. Despite hundreds of money laundering cases investigated since 2001, the interface with the justice system remains ineffective.

The GOR announced a national anti-corruption plan in early 2003 and passed a law against organized crime, codifying the provisions of the UN Convention in January 2003, as well as a new anti-corruption law in April 2003. In the thirteen months since the September 2002 founding of the Anti-Corruption Prosecutor's Office (PNA), over 2200 cases of corruption have been investigated. A new Criminal Procedure Code was passed and became effective on July 1, 2003. The new Code contains provisions for authorizing wiretapping, intercepting, and recording telephone calls for up to 30 days, in certain circumstances. These circumstances, as provided for within the new Code, include terrorism acts and money laundering.

After the events of September 11, 2001, Romania passed a number of legislative measures designed to sanction acts contributing to terrorism. Emergency Ordinance 141, passed in October 2001, legislates that the taking of measures, or the production or acquisition of means or instruments with an intention to commit terrorist acts, are offenses of exactly the same level as terrorist acts themselves. These offenses are punishable with imprisonment ranging from five to 20 years. Emergency Ordinance 159, also passed in 2001, sets measures for preventing the use of the financial and banking system to finance terrorist attacks, and sets forth the parameters for the government to combat such use. The National Bank of Romania, which oversees all banking operations in the country, also issued Norm No. 5 in support of Emergency Ordinance 159. Emergency Ordinance 153 was passed to strengthen the government's ability to carry out the obligations under UNSCR 1373, including the identification, freezing and seizure of terrorist funds or assets. The National Bank of Romania receives lists of individuals and terrorist organizations from the UN. Sanctions Committee, EU, and USG, and circulates these to banks and financial institutions. No arrests or prosecutions have been carried out in regard to terrorism financing.

In April 2002, the GOR's Supreme Defense Council of the Country (CSAT) adopted a National Security Strategy, which included a General Protocol on the Organization and Functioning of the National System on Preventing and Combating of Terrorist Acts. This system, effective July 2002 and coordinated through the Intelligence Service, brings together and coordinates a multitude of agencies, including 14 ministries, the General Prosecutor Office, the National Bank, and the National Office for the Prevention and Control of Money Laundering. The GOR has also set up an interministerial committee to investigate the potential use of the Romanian financial system by terrorist organizations.

The EU's Europe Agreement with Romania provides for cooperation in the fight against drug abuse and money laundering. Romania is a member of the Council of Europe (COE) and participates in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). A mutual evaluation in April 1999 by that Committee uncovered a number of areas of concern, including the high evidence standard required for reporting suspicious transactions, a potential conflict with the bank secrecy legislation, and the lack of provisions for cases in which the reporting provisions are intentionally ignored. Romania has been working to address these concerns, bringing in legal experts from the EU to consult. In late 2003, Romania also underwent a Financial Sector Assessment Program (FSAP) by the World Bank as part of that organization's pilot program.

The NOPCML is a member of the Egmont Group. The Mutual Legal Assistance Treaty signed in 2001 between the United States and Romania entered into force in October 2001. Romania has demonstrated its commitment to international anti-crime initiatives by participating in regional and global anti-crime efforts. Romania is a party to the 1988 UN Drug Convention, the Agreement on Cooperation to Prevent and Combat Transborder Crime, and the UN Convention against Transnational Organized Crime. With Law No. 263/2002, passed in 2002, Romania ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. During 2002, Romania also ratified the Council of Europe's Criminal Law Convention on Corruption, and in December signed the UN Convention Against Corruption. Romania ratified the UN International Convention for the Suppression of the Financing of Terrorism in January 2003.

Romania should continue addressing the concerns of the Council of Europe evaluators as to further improvements in its anti-money laundering regime, and should continue its progress on money laundering investigations and prosecutions. The GOR should adopt procedures for the timely freezing, seizure and forfeiture of crime or terrorism related assets. The GOR should adopt reporting requirements for the cross-border movement of currency and monetary instruments.

Russia

Russia's ability to combat the laundering of criminal financial proceeds domestically and internationally has been considerably strengthened over the past two years by aggressive enactment and implementation of comprehensive money laundering and counterterrorism financing legislation. Despite notable progress and demonstrated political will to aggressively combat these phenomena, the magnitude of money laundering remains large, because of the number and scale of contributing factors. Russia's abundance of natural resources, infiltration of society by organized crime, high level of corruption (Transparency International Corruption Perceptions Index 2003 assigns Russia a score of 2.7 out of 10. "Highly clean" rates a "10" and the 2.7 score—unchanged from 2002—puts Russia in 86th place out of 133 countries), porous borders, role as a geographic gateway to Europe and Asia, weak banking system, and under-funding of regulatory and law enforcement agencies continue to leave it vulnerable to money laundering. Russia is still used for money laundering by Russian criminals moving funds out of Russia and by criminals from neighboring countries because of familiarity with the language, culture and economic system. The majority of these funds do not appear to be from activities related to narcotics production or trafficking, although these activities are

believed to occur. Most of the proceeds of criminal or quasi-criminal activity are believed to derive primarily from domestic sources, including evasion of customs duties and smuggling operations. Such activities, however, are not believed to be connected to narcotics trafficking.

Net flows of money out of the country, primarily attributed to unrepatriated export earnings, tax evasion, and a weak banking system, have slowed noticeably in recent years, due in part to the 1998 ruble devaluation and higher oil prices, which together have led to more than 6 percent annual growth in the economy between 1999 and 2002. The growth in GDP, along with a renewed government effort to advance lagging economic structural reforms, raised business and investor confidence over Russia's prospects in its second decade of transition, which in turn led to have led to a gradual reduction in capital flight.

The capital flight for 2003 totaled \$2.7 billion, however, the underlying quarterly flows were quite volatile. The 2003 figure is down from \$8.3 billion in 2002 and \$15.2 billion in 2001. A significant but by no means predominant portion of capital flight constitutes proceeds of criminal activity. Central Bank officials have not linked the resumption in capital flight to the current scandal surrounding the arrest and indictment for tax evasion and embezzlement of Mikhail Khodorkovskiy, the CEO of the country's largest oil producer, Yukos.

Russian Federation Federal Law No. 115-FZ "On Combating Legalization (Laundering) of Criminally Gained Income and Financing of Terrorism" became effective on February 1, 2002, with subsequent amendments to the laws on banking, the securities markets, and the criminal code in October 2002, January 2003, and December 2003. The law requires obligated banking and nonbanking financial institutions to monitor and report transactions to an authorized agency, keep records, and identify their customers. Russian financial institutions (e.g., credit organizations, securities market professionals, insurance and leasing companies, funds transfer organizations, and pawnshops) must monitor and report to the government covered transactions that exceed 600,000 rubles (approximately \$20,000) and involve any one of a list of specified characteristics, including, for example, the purchase of securities with cash or the use of foreign currency. Financial institutions must also report suspicious or unusual transactions that contain certain high-risk features or when money laundering is suspected.

Earlier reforms (1999) by the Central Bank of Russia (CBR) instituted regulatory measures to scrutinize offshore financial transactions. In the following six months, wire transfers from Russian banks to offshore financial centers dropped significantly. At the same time the CBR curtailed establishing correspondent relations with offshore banks by raising the standards for "eligible" offshore financial institutions and thereby reducing the number. In August 2003, the CBR issued order 1317-U, which regulates the relations of Russian financial institutions with their counterparts in offshore zones. In addition to requiring reporting of all transactions, offshore banks are in some cases subject to enhanced due diligence and maintenance of additional mandatory reserves to offset potential risks undertaken by the Russian institution for specific transactions. Foreign financial entities, including those from known offshore havens, are not permitted to operate directly in Russia: they must do so solely through subsidiaries incorporated in Russia, which are subject to domestic supervisory authorities. During the process of incorporation and licensing, each director of the Russian company must be identified and investigated by Russian authorities; therefore nominee or anonymous directors are, as a practical matter, not permitted under Russian law and regulation. Enforcement of these procedures will be carried out as part of the regular domestic bank inspection process. (Since the regulation is brand new, there is not yet a track record of enforcement.) For Russian businesses that want to open operations abroad, including in offshore zones, government permission is required. The Ministry of Economic Development and Trade (MEDT) has a department that reviews requests from Russian firms, and the CBR must also approve the overseas currency transfer if the MEDT approves. In both these cases, the regulatory body for the offshore activity is the same as for domestic activity.

The CBR has issued guidelines regarding anti-money laundering practices within credit institutions, to include know your customer (KYC) and bank due diligence programs; yet, according to a Financial Action Task Force (FATF) report of April 2003, KYC regulations in Russia are currently inadequate. Though banks are required to know, record, and report identities of customers in suspicious transaction report (STR) filings, and to maintain appropriate records, the current requirement to identify beneficial owners of accounts refers only to establishing the identity of the legal or natural person who controls the funds, not the original source or true owner, thereby in effect allowing a bank to simply identify the nominal owner of the account. According to recent press reports, however, the Central Bank is in the process of drafting amendments to the current banking laws to bring them in line with the revised FATF Forty Recommendations, for consideration by parliament in spring 2004. Amendments to make identification and reporting of all suspicious transactions mandatory, as opposed to only transactions containing certain features, are also underway. Additionally, consistent with FATF recommendations, the criminal code was amended in December 2003, removing a specific monetary threshold for crimes connected with money laundering, and thus paving the way for prosecution of criminal offenses regardless of the sum involved.

Still, issues remain in this sphere. According to the FATF, a recent CBR audit revealed that although most Russian credit institutions perform their obligations as required by Russian money laundering and terrorist finance laws, approximately nine percent of credit institutions and 11.7 percent of credit institution branches were found to be out of compliance with one or more of the requirements of Russian law. Typical breaches involve inadequate record keeping, failure to follow client identification requirements as set out in the internal control rules, mistakes in formulating and submitting records in electronic form to the CBR, and incorrectly classifying transactions as not being subject to obligatory control.

Article 8 of Russian Federation Law 115-FZ calls for the Financial Monitoring Committee (FMC), an independent executive agency administratively subordinated to the Ministry of Finance, to serve as Russia's financial intelligence unit (FIU). The FMC is responsible for coordinating all of Russia's anti-money laundering and counterterrorism financing efforts. The FMC, which first became operational in February 2002, is as an administrative FIU, having no law enforcement investigative powers.

The FMC opened seven regional departments in 2003. Each of the territorial offices corresponds with one of the seven federal districts that comprise the Russian Federation. The Central Federal District office is headquartered in Moscow; the remaining six are located in the major financial/industrial regions throughout Russia. The primary functions of the territorial offices are to establish cooperation with regional law enforcement and other authorities to enhance information that comes into the FMC, and to supervise anti-money laundering and terrorism financing legislation compliance by institutions under FMC supervision. Additionally, the satellite offices must identify and register at the regional level all of the pawnshops, leasing, and gaming entities under their jurisdiction. They also are charged with coordinating efforts between the CBR and other supervisory agencies with respect to implementation of anti-money laundering and counterterrorist financing regimes.

Recent amendments to the anti-money laundering law have increased the FMC's information gathering authority to include activities of investment foundations, nonstate pension funds, gambling businesses, and sales of precious metals and jewelry. Moreover, the amendments allow the FMC, in concert with banks, to freeze possible terrorist-related financial transactions up to one week. (Banks may freeze transactions for two days, and the FMC may follow up with an additional five days.) Consistent with FATF recommendations, further amendments are currently being drafted to expand the list of entities and individuals obliged to report to the FMC on suspicious financial operations. New entities will include lawyers, notaries, realtors, accountants, auditors, and other individuals providing legal services. Using encrypted software provided by the FMC, virtually all reporting from credit, securities, and insurance institutions is submitted via electronic means.

To date, the FMC has received over one million reports, approximately 50 percent of which are mandatory (currency) transaction reports and the other 50 percent suspicious transaction reports. According to the FMC, 12,000 of these reports contained evidence of criminal activity and were turned over to competent law enforcement authorities—the Ministry of Internal Affairs, the State Narcotics Control Committee, or the Federal State Security Service—for investigation, which resulted in the opening of 200 criminal cases. Thirteen of those criminal cases have thus far been sent to court.

In October 2003, the Russian Ministry of Internal Affairs (MVD) announced money laundering investigations against two large banks, Sodbiznesbank and Eurotrust. According to the MVD, four senior officials from Sodbiznesbank were allegedly involved in illegal transactions involving approximately \$16.1 million, and three employees at Eurotrust were under investigation for laundering approximately \$258 million of criminal proceeds.

In light of the reforms to Russia's anti-money laundering regime, FATF withdrew its call for countermeasures against Russia in September 2001, and removed Russia from its list of noncooperative jurisdictions in October 2002. The U.S. Treasury Department Advisory, which had instructed U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Russia, was also lifted. In February 2003, the FATF granted Russia observer status, and following a successful FATF mutual evaluation in April, Russia became a full FATF member at the June 2003 plenary. At its first plenary as a full-fledged FATF member, Russia announced its intention to create a FATF-Style Regional Body (FSRB) for the five Central Asian States of Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. Russia is currently pursuing this initiative.

Russia has a legislative and financial monitoring scheme that facilitates the tracking and seizure of all criminal proceeds. None of this legislation, however, is specifically tied to narcotics proceeds. Russia's laws criminalizing money laundering and terrorist financing also provide for the forfeiture of criminal proceeds. Russian legislation provides for a variety of investigative techniques such as search, seizure and compelling the production of documents, as well as the identification, freezing, seizing and confiscation of funds/assets. Where sufficient grounds exist to suppose that property was obtained as the result of a crime, investigators and prosecutors can apply to the court to have the property frozen or seized. Law enforcement agencies have power to identify and trace property that is, or may become, subject to confiscation or is suspected of being the proceeds of crime or terrorist financing. In accordance with its international agreements, Russia recognizes rulings of foreign courts relating to the confiscation of proceeds from crime within its territory and can fully or partially transfer confiscated proceeds of crime to the foreign state whose court issued the confiscation order. However, Russian law still does not provide for the seizure of instruments of crime. Businesses can be seized only if it can be shown that they were acquired with criminal proceeds. Legitimate businesses cannot be seized solely on the basis that they were used to facilitate the commission of a crime. While Russian law enforcement has adequate police powers to trace and seize assets, most Russian law enforcement personnel lack experience and expertise in these areas.

The Russian Federation has enacted new legislation and executive orders to strengthen its ability to fight terrorism. On January 11, 2002, President Putin signed a decree entitled "On Measures to Implement the UN Security Council Resolution (UNSCR) No. 1373 of September 28, 2001." Noteworthy among this decree's provisions are the introduction of criminal liability for intentionally providing or collecting assets for terrorist use, and the decree's instructions to relevant agencies to seize assets of terrorist groups. This latter clause, however, conflicted with existing domestic legislation. Accordingly, on September 24, 2002, the Duma approved an amendment to the anti-money laundering law, resolving the conflict, and allowing banks to freeze assets immediately, pursuant to UNSCR 1373. This law came into force on January 2, 2003. Further, Article 205.1 of the criminal code, which was enacted in October 2002, criminalizes terrorist financing. On October 31, 2002, the Federation Council (Russia's upper house) approved a supplemental article to the 2003

federal budget, allocating from surplus government revenues an additional 3 billion rubles (\$100 million) in support of federal antiterrorism programs and improvement of national security.

In February 2003, at the request of the General Procuracy, the Russian Supreme Court issued an official list of 15 terrorist organizations. According to press reports, the financial assets of these organizations were immediately frozen. In addition, Russia has assisted the United States in investigation of terrorist financing, providing vital financial documentation and other evidence establishing the criminal activities of the Benevolence International Foundation (BIF). Russian authorities have also provided U.S. federal law enforcement authorities with valuable evidence relating to terrorist fundraising activities of an individual currently being prosecuted in the United States for possession of counterfeit currency.

The United States and Russia signed a Mutual Legal Assistance Treaty in 1999, which entered into force on January 31, 2002. To date, the FMC has signed cooperation agreements with the FIUs of the United States, Poland, Britain, the Czech Republic, Belgium, Italy, Panama, France, Estonia and Ukraine. Additionally, the FMC is an active member of the Egmont Group of FIUs, having taken on sponsorship of several candidate countries for 2004. The FBI, DEA and Homeland Security all exchange operational information with their Russian counterparts on a regular basis.

In addition to membership in the FATF, Russia holds membership in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). Russia ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime in January 2001. Russia is a party to the 1988 UN Drug Convention and has signed, and is expected to soon ratify, the UN Convention against Transnational Organized Crime, which entered into force on September 29, 2003. In November 2002, Russia ratified the UN International Convention for the Suppression of the Financing of Terrorism. Russia also became a signatory to the UN Convention Against Corruption, which has not yet entered into force, on December 9, 2003.

The enactment of comprehensive anti-money laundering legislation in 2001, followed by creation of a fully functioning FIU in 2002 and entry into the FATF in 2003, marked major milestones in Russia's anti-money laundering regime. Although Russia has developed a solid foundation for combating money laundering and can effectively begin to serve as a role model for other governments in its region, legal loopholes remain open that Russia should immediately address. Russia should enact legislation that would provide for the seizure of instruments, as opposed to merely the proceeds, of criminal activity. Russia should also enact more stringent banking legislation requiring financial institutions to identify the true source, or beneficial owner, of funds, as opposed to identifying only the person or entity that controls the funds of a particular account. Russia should continue to address deficiencies in anti-money laundering compliance programs at banking and nonbanking financial institutions, through continued education and outreach to the affected industries. Finally, Russia should continue its active participation in international fora.

Rwanda

Rwanda is not considered a major financial center. Since recovering from the 1994 Genocide and war, Rwanda's banking system has been controlled by the government and is now in the process of privatization. The system lacks the efficiencies of more modern banking systems. However, with advancing stability in the country, Rwanda could become a greater risk as its banking system develops and countries like Kenya or Tanzania become less hospitable to money launderers.

There have been no documented reports of money laundering in Rwanda, primarily due to the government's monitoring through the Central Bank of monetary transfers totaling more than \$50,000, whether internal or international. The authority for such monitoring is granted in the Rwandan

Banking Act of 2000. We do not know if Rwandan financial institutions engage in international narcotics-trafficking transactions or whether Rwanda has entered into bilateral agreements for the exchange of information on money laundering with other countries. Since Rwanda has been the recipient of large amounts of foreign assistance, the IMF and the World Bank provide some monitoring of the banking sector, particularly with regard to government spending. In addition, the majority of charitable and nonprofit entities are recipients of international aid and are largely monitored by their donors, the IMF and/or the World Bank.

There has been significant evidence of the Government of Rwanda (GOR) indirectly engaging in mineral transfers from the Congo during the Rwandan occupation of the eastern Congo that ended in the fall of 2002. The National Bank of Rwanda (BNR) and the Rwandan Private Sector Federation (the Rwandan equivalent of the chamber of commerce) both confirmed the large amounts of Rwandan profits obtained from the processing of coltan from 1999 through 2001. According to the BNR, the profits reportedly peaked at \$3 million in customs fees and banking profits in a two-month period in 2000. These profits helped fuel the Rwandan GDP growth rate of 9 percent for 2002. Neither organization could confirm significant transactions in Congolese diamonds.

For the past two years, Rwanda has been completely overhauling its legal system. Additional legislation will be presented to the newly elected parliament. Potential loopholes remain in the legal system. These include a lack of provision for the prosecution of potential money laundering cases and, in the area of imports and exports, a lack of regulation except post-checks on transferred goods. According to legal experts with the Rwandan Finance Ministry and the Prosecutor General's office, no laws under consideration would curb secrecy in respect to client and ownership information in either domestic or offshore financial transactions. Additionally, there are no laws in place concerning banker negligence or the forfeiture and seizure of assets in cases involving narcotics trafficking, serious crimes or terrorists. In addition, no arrests for money laundering or terrorist financing have occurred in Rwanda since January 1, 2003. On December 5, 2003, the cabinet decided to establish a unit within the Ministry of Internal Security to fight global terrorism.

Rwanda has officially committed itself to locating and freezing terrorist assets identified by the international community. However, Rwanda has yet to develop fully its laws and its ability to enforce regulations against terrorist financing in accordance with the relevant UN resolutions. The GOR does, however, retain the power to identify, freeze, and seize terrorist finance-related assets. The Ministry of Finance circulates lists of identified individuals and organizations included on the UN 1267 Sanctions Committee's consolidated list, and Rwanda is a party to the UN International Convention for the Suppression of the Financing of Terrorism.

The GOR cooperates with the United States when requested in connection with investigations and proceedings related to narcotics, terrorism, terrorist financing, and other serious crimes. For example, the Rwandan National Police's (RNP) Economic Crimes Division has recently cooperated with the USG in check embezzlement investigations that have led to arrests in Uganda. However, the RNP lacks the experience, training, and resources to be effective in investigating and enforcing laws concerning modern money laundering and terrorist financing. Furthermore, no formal body of laws or regulations concerning this cooperation currently exists in Rwanda, although Rwanda is a party to the 1988 UN Drug Convention, and the UN Convention against Transnational Organized Crime.

Rwanda should enact comprehensive anti-money laundering legislation covering all serious crimes including terrorist financing and take steps to develop a viable anti-money laundering regime. Rwanda should also consider becoming an observer to the East and South Africa Anti-Money Laundering Group.