



Global Forum on Transparency
and Exchange of Information for Tax Purposes



SUPPLEMENTARY PEER REVIEW REPORT

Phase 2

Implementation of the Standard in Practice

SEYCHELLES



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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. The standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

Executive summary

1. In 2013, the Global Forum evaluated the Seychelles for its implementation of the standard in practice. The Seychelles was rated Non-Compliant overall. This supplementary report evaluates the progress made by the Seychelles since then. The conclusion of this report is that the Seychelles is now overall Largely Compliant with the international standard.

2. In the Phase 2 review the Seychelles was assigned the following ratings: Compliant for elements A.3, B.1, B.2, C.3 and C.4, Largely Compliant for element C.5, Partially Compliant for elements C.1 and C.2, and Non-Compliant for elements A.1 and A.2. The resulting overall rating for the Seychelles was Non-Compliant.

3. Since the Phase 2 review the Seychelles has implemented several measures to address deficiencies identified in the Phase 2 review which resulted in changes in ratings of elements A.1, A.2, C.1 and C.2.

4. Under element A.1 the Phase 2 report identified gaps in respect of effective enforcement provisions and supervision to ensure that up-to-date ownership information in relation to international business companies (IBCs) will be available and in respect of transfer of bearer shares certificates which may not be reported to registered agent in all instances. Regarding element A.2 the Phase 2 report identified lack of supervision particularly in the case of IBCs and lack of effective sanctions in situations where accounting data is not kept.

5. Since the Phase 2 review the Seychelles has *(i)* strengthened sanctions for non-compliance with legal requirements including broadening of possibility to strike off a company where the requested information is not provided; *(ii)* prohibited bearer shares; *(iii)* introduced requirement for IBCs to provide declaration of compliance with its ownership and accounting obligations whose breach can be sanctioned; *(iv)* introduced an obligation on corporate service providers (CSPs) to monitor compliance of their clients with record keeping obligations and periodically report results of this monitoring to the FSA; *(v)* introduced an obligation to maintain the share register at the corporate service provider's office in all cases; *(vi)* restructured the supervisory authority of the offshore sector and strengthened its supervisory powers;

(vii) increased the number of inspections and the proportion of inspected IBCs; and (viii) increased the number of cases and level of sanctions applied including cases where an IBC was struck-off from the register.

6. The above changes address the deficiencies identified in the Phase 2 review, however these measures were introduced only recently and need to be consistently applied also in the future to ensure their effectiveness in practice. It is therefore recommended that the Seychelles monitor their practical implementation so that the required ownership and accounting information is available in practice in line with the standard.

7. Under element C.1 the Phase 2 report concluded that three DTCs include an additional protocol which is not in line with the standard. Since the Phase 2 review the Seychelles has contacted all three partners and brought these treaties in line with the standard. In addition, the Seychelles has signed another eight EOI agreements in line with the standard. These are five DTCs, two TIEAs and the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention). Consequently, all Seychelles' 104 EOI relations provide for exchange of information in line with the standard.

8. During the Phase 2 review three peers reported that their TIEA negotiations with the Seychelles had not successfully progressed. Since the Phase 2 review the Seychelles signed the Multilateral Convention which comes into force in the Seychelles on 1 October 2015. Two of the three peers are now parties to the Multilateral Convention and therefore the Seychelles has an EOI relation with them. The Seychelles has approached all three peers in order to conclude a TIEA and are awaiting response from the third remaining peer which is not a signatory to the Multilateral Convention. The Multilateral Convention broadens Seychelles treaty network by 58 jurisdictions. In addition, the Seychelles signed five new DTCs and two TIEAs. No peer reported during the supplementary review that the Seychelles has been unwilling to enter into negotiations of EOI instrument regardless of its form.

9. During the period under review the Seychelles received three EOI requests. All three requests related to IBCs. In all cases the requested information was available and provided to the requesting jurisdiction within 90 days. The Seychelles procedures and resources allocated to EOI are adequate to handle the current volume and to face expected increase in the future. Nevertheless, since the Seychelles' experience in EOI is limited, it is recommended that its authorities continue monitoring its processes and resources to ensure that complete answers are provided to its partners in a timely manner.

10. As a result of this supplementary review, the Seychelles rating for the 10 essential elements and its overall rating have been revised. The

ratings for the essential elements are based on the analysis in the text of the report, taking into account the Phase 1 determinations and any recommendations made in respect of the Seychelles legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, the Seychelles has been assigned the following ratings: Compliant for elements A.3, B.1, B.2, C.1, C.2, C.3 and C.4; and Largely Compliant for elements A.1, A.2 and C.5. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for the Seychelles is Largely Compliant.

11. A follow up report on the steps undertaken by the Seychelles to answer the recommendations made in this report should be provided to the PRG within twelve months after the adoption of this report.

Introduction

Information and methodology used for the peer review of the Seychelles

12. The assessment of the Seychelles legal and regulatory framework as well as its practical implementation made in this supplementary peer review report was prepared following a request pursuant to paragraph 60 of the Global Forum’s *Methodology for Peer Reviews and Non-member Reviews* (version adopted in November 2013). It considers recent changes to the legal and regulatory framework of the Seychelles, as well as to the effectiveness of this framework in practice, based on the international standards for transparency and exchange of information as described in the Global Forum’s *Terms of Reference*.

13. The Seychelles informed the Global Forum Peer Review Group in April 2015 of the steps it had taken to address the recommendations made in its Phase 2 report. Progress was reported on elements A.1, A.2, C.1, C.2 and C.5 and a request for a supplementary review was made. On the basis of the progress reported, the Peer Review Group agreed that a supplementary review should be launched.

14. The present supplementary report follows the Phase 2 report adopted in November 2013. The Phase 2 report assessed Seychelles’ legal framework as at 23 August 2013 and covered exchange of information practice for the period from 1 July 2009 until 30 June 2012. The present report reviews changes made to the Seychelles’ legal and regulatory framework which came into force after the cut off date of the Phase 2 report as well as changes in the practical implementation of that framework since the Phase 2 assessment. The present assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at 17 August 2015 as well as information supplied by the Seychelles and peer jurisdictions. The assessment of the exchange of information practice covered a two and a half year review period from 1 July 2012 until 31 December 2014.

15. The assessment was conducted by an assessment team which consisted of two expert assessors and one representative of the Global Forum

Secretariat: Ms. Ivonete Souza, Tax Auditor in the Brazilian Federal Revenue Service for Brazil; Mr Thierry Glajean, Deputy Director in the Large Businesses Audit Branch of the French Revenue Administration for France and Mr Radovan Zidek from the Global Forum Secretariat.

16. The *Terms of Reference* break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. This review assesses the Seychelles legal and regulatory framework as well as the practical implementation of that framework against these elements and each of the enumerated aspects. In respect of each essential element, a determination is made that either: (i) the element is in place; (ii) the element is in place but certain aspects of the legal implementation of the element need improvement; or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. In addition, to reflect the Phase 2 component of the review, recommendations are made concerning the Seychelles practical application of each of the essential elements and a rating of either: (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant is assigned to each element. An overall rating is also assigned to reflect the Seychelles overall level of compliance with the standards.

17. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the *Terms of Reference*, which takes into account the conclusions of this supplementary report, can be found at the end of this report.

Overview of the Seychelles

18. The Seychelles (officially the Republic of the Seychelles) is an archipelago in the Indian Ocean east of mainland Africa. The Seychelles has an estimated population of 90 000. Creole, English and French are the three official languages of the Seychelles.

General information on legal system and the taxation system

19. The Seychelles' legal system looks partly to the civil law and partly to the common law tradition. Public law areas including taxation are governed by statutes based on common law principles. The constitution of the Seychelles comes first in terms of legislative supremacy followed by the acts and the codes approved by the National Assembly (the Parliament) which both have the same legal power. Under legal acts approved by the Parliament

are regulations issued by government ministers. International treaties have the same legal power as domestic laws approved by the Parliament.

20. The Seychelles' tax system is based on direct taxes such as the income tax on individuals and the business tax, as well as indirect taxes. Direct taxes include business tax and personal income and non-monetary tax, accounting for 31.4 % of total tax revenues and 9.2% of GDP in 2014. There are various rates of business tax ranging from 15% to 33% depending on type of the entity and type and amount of the taxable income. Personal income tax rate is 15%. Indirect taxes include the VAT which accounted for 34 % of the total revenue collection and 10% of GDP in 2014. The VAT rates are 15% and 0%.

Overview of the Seychelles economy, financial sector and relevant professions

21. In 2014, the Seychelles estimated GDP was SCR 18.1 billion (USD 1.3 billion). The Seychelles economy is driven by tourism and fishing exports.

22. The offshore industry has over the years played an important role in the development of the Seychelles economy. Between 2005 and 2013 the number of IBCs incorporated in the Seychelles increased from 25 000 in 2005 to 85 000 in 2010 and more than 130 000 in 2013, the number of special license companies from 31 in 2005 to 273 in 2013 and the number of trusts from 135 to 559. In 2012, the Seychelles was the second jurisdiction in the world, after the British Virgin Islands, for the number of IBCs (international business companies) incorporated.

23. In January 2014, 13 foundations service providers, 25 trusts service providers and 65 corporate service providers were licensed by the FSA. In addition, 50 attorneys, 30 accountants, 39 notaries, 45 auditors are covered by the customer due diligence requirements stated by the anti-money laundering legislation. Since the Phase 2 review the number of service providers mildly decreased however this does not represent a decisive trend and the number of professionals providing services to the offshore sector remains relatively constant. Nevertheless, the number of offshore entities registered in the Seychelles increased since the Phase 2 review by 26%. This is especially the case in respect of foundations and IBCs. The table below provides statistics on the cumulative number of offshore entities formed in the Seychelles:

	2007	2008	2009	2010	2011	2012	2013	2014
International business companies (IBCs)	43 442	57 195	69 593	84 356	100 827	116 923	137 665	158 487
Trusts	211	312	368	430	469	518	559	606
Special licences companies (“CSL companies”)	120	163	201	228	246	260	273	287
Limited partnerships	7	14	17	20	23	24	27	28
Protected cell companies	1	1	2	4	5	5	6	11
Foundations	-	-	-	36	98	208	286	421
Total	43 781	57 685	70 181	85 074	101 668	117 938	138 816	159 840

24. The total number of entities in the above table indicates number of entities which have ever been registered in the Seychelles. Out of the total 158 487 IBCs only 89 294 IBCs are active as of 1 January 2015, i.e. not struck off or dissolved. Out of the 89 294 active IBCs 69 954 are in good standing, i.e. have paid their annual fees. The remaining 19 340 are not in good standing and if they will not pay their annual fees they will be struck off from the register (17 272 on 1 January 2016 and 2 068 on 1 January 2017). Out of the 69 193 IBCs which are not active 4 522 have been dissolved and 64 671 struck-off (see further section A.1.1 and A.1.6). Similarly, out of the total 287 CSL companies ever registered in the Seychelles 64 have been already struck-off, out of the 28 limited partnerships four have been dissolved and out of the 421 foundations 10 have been dissolved. No protected cell company has been struck-off or dissolved. The number of international trusts that are no longer in existence is not available as the trustee (TSP) is not required to notify the FSA of this fact.

25. Since 2014 the financial services sector is regulated by the Financial Service Authority (FSA) which took over responsibilities of the previous regulator the Seychelles International Business Authority (SIBA). The FSA is an independent body established to manage and operate international business activities within the Seychelles. The FSA acts as the regulatory and supervisory authority of the offshore sector as well as being the registration authority for the implementation of the International Business Companies Act, 1994 (IBC Act), the International Trust Act, 1994, the International Corporate Service Providers Act, 2003 (ICSP Act), the Foundations Act, 2009 and Insurance Act, 2008 (see further section A.1 of this report).

26. Banking and financial matters are controlled by the Financial Institutions Act, 2004 under the supervision of the Central Bank of the Seychelles (governed by the Central Bank of the Seychelles Act, 2004). The anti-money laundering legislation is under the control of the Financial Intelligence Unit (FIU). The domestic financial services sector in the

Seychelles is relatively small with, in 2014, nine commercial banks, one development bank, one housing finance company,⁶ domestic insurance companies, 13 insurance brokers, 24 bureaux de change and one credit union. The total value of assets held by Seychelles' banks amounted to EUR 1.38 billion as of 31 December 2014. Out of this the total value of non-resident deposits held by these banks was over EUR 0.26 billion.

27. The Seychelles AML/CFT framework is governed by the AML Act of 2006. Under this Act, the FIU is empowered to request any information from reporting entities for the purpose of fulfilling its statutory remit. Subsequent amendments were made in 2008 and 2011 which introduced wide ranging reforms to the 2006 Act. In 2012 AML Regulations were promulgated under the Act. These amendments were made to further implement FATF recommendations and to address recommendations made in the 2008 Eastern and Southern Africa Anti-Money Laundering Group's mutual evaluation report on the Seychelles. The changes include granting powers to the FIU to investigate suspicious transaction reports and other forms of criminal conduct, to require any person appearing to have information, documentation and materials required in connection with its statutory remit to furnish such information to the FIU or to provide for a regime of civil confiscation. These provisions were reviewed during the Supplementary Phase 1 Review that was conducted in 2012 and are further referred to in section A.1 of this report.

Recent developments

28. The Seychelles has amended the IBC Act to address recommendations made in the Phase 2 report. The amendment came into force on 16 December 2013. The legal changes among others require a copy of an IBC's share registers to be kept at its registered office in Seychelles (i.e. at the office of its registered agent in Seychelles), require IBCs to submit an Annual Report in the form of a declaration that the IBC is keeping accounting records in accordance with the Act and that such records can be made available through its registered agent and abolish bearer shares. The changes are analysed in sections A.1 and A.2 of this report.

29. On 6 January 2014 the Financial Services Authority Act, 2013 (FSA Act) came into force. The FSA Act restructures the supervisory authority over the Seychelles financial centre. The Financial Services Authority succeeds SIBA as the authority mandated to regulate the provisions of financial services and to ensure compliance of the regulated entities with the Seychelles regulations (see further section A.1 of this report).

30. The Seychelles signed and recently deposited its instrument of ratification of the Multilateral Convention which significantly broadens its exchange of information network. The Multilateral Convention comes

into force in the Seychelles on 1 October 2015. In order to accede to the Multilateral Convention the Seychelles has amended confidentiality provisions of the Seychelles Revenue Commission Act (SRC Act) to ensure that all information exchanged under the Convention is treated as confidential in accordance with its terms. The amendment came into force on 19 January 2015.

31. The Seychelles has committed to the new Standard on Automatic Exchange of Financial Account Information and has commenced its implementation. In May 2015, the Seychelles joined the Multilateral Competent Authority Agreement. In joining this agreement, the Seychelles notified that its intended first exchange under the Standard will be in 2017. Further, the Seychelles amended the Revenue Administration Act (RAA) to authorise automatic exchange of information and is currently drafting its regulations to govern the information collection and reporting for this purpose. The Seychelles has been working with the Global Forum Secretariat since mid-2014 as the first pilot project for implementation of the new standard on automatic exchange of information.

Compliance with the Standards

A. Availability of information

Overview

32. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as accounting information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of the Seychelles' legal and regulatory framework concerning then availability of information.

33. The Phase 2 report concluded that ownership and accounting information is available with respect to domestic entities (i.e. companies incorporated under the Companies Ordinance, 1972 or partnerships set up under the Civil Code, 1976). The availability of this information is monitored by the Seychelles' authorities, either by the Registrar of Companies or by the Seychelles Revenue Commission (SRC). There has been no change in this respect since the Phase 2 review.

34. Regarding offshore entities (i.e. IBCs, protected cell companies, CSLs, limited partnerships, international trusts and foundations) the Phase 2 report concluded that the Seychelles requires that ownership information in relation to these entities or arrangements be available. However it further

noted that there were currently no effective enforcement provisions to ensure that up-to-date ownership information in relation to IBCs would be available in all instances and that transfers of bearer shares certificates may not be reported to registered agent in all instances. It also identified an issue in respect of supervision of IBCs' share registers kept outside of corporate service provider's office. Since the Phase 2 review the Seychelles has introduced several legal and practical measures which address these deficiencies. The Seychelles has

- strengthened sanctions for non-compliance with law requirements including broadening of possibility to strike off a company where the requested information is not provided;
- prohibited bearer shares;
- introduced a requirement for IBCs' to provide a declaration of compliance with its ownership and accounting obligations whose breach can be sanctioned;
- introduced an obligation on CSPs to monitor compliance of their clients with record keeping obligations and periodically report results of this monitoring to the FSA;
- introduced an obligation for IBCs to maintain share register at the corporate service provider's office in all cases;
- restructured the supervisory authority of offshore sector and strengthened its supervisory powers;
- increased the number of inspections and proportion of inspected IBC;
- increased the number of cases and level of sanctions applied including cases where an IBC was struck-off from the register.

35. Offshore entities and arrangements are required to keep accounting records with the underlying documentation for at least seven years in accordance with the standard. The Phase 2 report however identified lack of supervision or monitoring programme particularly in the case of IBCs and lack of effective sanctions in situations where accounting data is not kept. Since the Phase 2 review the Seychelles has taken several measures as listed above to address these deficiencies. Notably the Seychelles has (i) clarified the supervisory powers of the supervisory authority giving FSA clear power to request accounting information from the CSP or directly from the IBC to verify compliance with requirement to keep accounting records, (ii) introduced an obligation on the IBC to declare that accounting records in accordance with the Seychelles law are kept and can be made available through the CSP, (iii) introduced an obligation on CSPs to monitor compliance of their clients with accounting obligations and periodically report

results of this monitoring to the FSA, (iv) provided sanctions for breach of these obligations and false declaration of compliance.

36. Nevertheless as these measures were introduced only recently it is recommended that the Seychelles monitor their practical implementation to ensure that the required ownership and accounting information is actually available in practice in line with the standard.

37. With regard to availability of banking information the Phase 2 report concluded that the Seychelles law contains requirements to maintain banking information in line with the standard and that banking information is available in the Seychelles. There has been no change since the Phase 2 review in respect of the key legal obligations or supervisory practices concerning availability of banking information as required under the standard.

38. Over the reviewed period from July 2012 to December 2014 the Seychelles received three EOI requests. All three requests related to IBCs. Ownership information was requested in all three cases, accounting and banking information was requested in one case. In all cases the requested information was available and no issue was encountered by the Seychelles authorities. No issue in respect of availability of information has been reported by peers.

A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

Companies (ToR¹ A.1.1)

39. The Seychelles' law provides for creation of several types of companies. The main types of companies that can be incorporated in the Seychelles are:

- Companies incorporated under the Companies Ordinance, 1972 where the liability of a member of the company is limited to the nominal value of the shares registered in his name. As of December 2014 2 803 companies incorporated under this Ordinance are in the records of the Registrar;
- Proprietary companies incorporated under the Companies Ordinance, 1972 which are companies without preference shares, comprising not

1. *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information.*

more than 50 members where at least three quarters of the issued shares are held by the directors and where neither members nor directors are corporations and where the proprietary company has no holding company. There were 3 754 proprietary companies registered with the Registrar of Companies in December 2014;

- Protected cell companies registered under the Companies Ordinance, 1972 and Protected Cell Companies Act, 2003 creating one or more cells for the purpose of segregating and protecting cellular assets according to the Act (for example, different classes of insurance), without the need to set up different legal entities. 11 protected cell companies were registered with the Registrar in December 2014;
- International business companies (IBCs) incorporated under the IBC Act, 1994 which are designed to conduct business outside of the Seychelles and are not allowed to carry on business within the country or own any substantial property there. These companies are tax-exempt in the Seychelles. As of December 2014 there were 158 487 IBCs registered in the Seychelles and out of these 89 294 were active, i.e. not struck-off or dissolved.
- Special license companies (CSLs) incorporated under the Companies Ordinance, 1972 and licensed under the Companies (Special Licences) Act, 2003 carrying on offshore banking, offshore insurance, reinsurance, investments, holding, marketing, holding intellectual property, acting as a headquarters company, human resource company, franchise company, or conducting business under an International Trade Zone license. CSLs are subject to a corporate tax at a 1.5% and lower withholding tax rates on dividends and interest. There were 287 CSL companies in the Seychelles in December 2014 and out of these 223 were active.

40. The Phase 2 report concluded that the availability of ownership information in relation to domestic companies is ensured in the Seychelles through registration with the Registrar of Companies and provision on an annual basis of all shareholders details to this authority and that in practice this information is available when needed and easily retrievable. In respect of offshore companies the Phase 2 report stated that the Seychelles' laws require these companies to keep ownership information on shareholders and although this information is not held by government authorities this information or a copy of it must be kept by CSPs. It further noted that although CSPs are inspected by the licensing authority (former SIBA) and the FIU and correctness and accuracy of the records maintained are reviewed on these occasions, nevertheless, when the copy of the share register is kept at another place in Seychelles, there was no programme of supervision of the record keeping obligations.

41. Since the Phase 2 review the Seychelles has made several legal changes to improve availability of ownership information in respect of IBCs. These amendments came into force on 16 December 2013. To address the identified deficiency the Seychelles abolished the possibility to keep a copy of the share register at another place in Seychelles (s.2(d)(ii) IBC Amendment Act, 2013). If the share register is not held in the office of the CSP sanctions apply (see section A.1.6). Further, the IBC guidelines were amended to prescribe the format of the share register which has to include names of shareholders, their addresses, number of each class and series of shares held by each person, date the person(s) became a shareholder and date the person(s) ceased to be a shareholder (Annex 3, IBC Guidelines, 2013).

42. The definition of a shareholder in section 2 of the IBC Act has been amended to state that a shareholder means a person registered as a shareholder in the share register (s.2(a) IBC Amendment Act, 2013). A person who is not entered in the share register is not a shareholder of the IBC and cannot exercise any of the legal rights a shareholder would normally have under the Seychelles' laws.

43. The Seychelles introduced a new obligation to file an annual declaration by the IBC with the CSP acting as its registered agent. Every IBC must by 31 December of each year furnish to the registered agent a return in the form of a declaration that (i) the company is keeping accounting records in accordance with the IBC Act and that such records can be made available through its registered agent; and (ii) the share register located at the office of its registered agent is complete and updated. It is an offence for a company to furnish a false, misleading or inaccurate return. A company that contravenes this obligation and its director who knowingly permits this contravention is liable to a penalty of USD 100 and to an additional penalty of USD 25 for each day during which the contravention continues (s.2(j) IBC Amendment Act, 2013). The IBC Guidelines further provide a standard format for the declaration which mirrors language used in the law. IBCs were first required to file the declaration for year 2014. The deadline for filing declarations for 2014 was extended to 30 June 2015 due to time needed for practical implementation of the new obligation. Compliance with this obligation will be supervised by the FSA during its onsite inspections together with inspection of share registers, registers of directors and other legal requirements.

44. In March 2015 the Seychelles amended Code for ICSPs to introduce obligation for CSPs to monitor compliance of their clients with record keeping obligations and periodically report results of this monitoring to the FSA. The Code for ICSPs is issued by the FSA under section 13 of the ICSP Act and has therefore binding power of law. CSPs are required to monitor compliance of IBCs, foundations and limited partnerships with record keeping obligations. Record keeping obligations cover ownership and accounting

information, i.e. in respect of IBCs obligation to maintain (i) the share register, (ii) the register of directors and officers, (iii) the accounting records (or where the accounting records are kept at a place other than its registered office, a written notification of the physical address of that place) and (iv) the obligation to submit the IBC's annual declaration. Upon detection of a failure to keep such records the CSP is required to send a notice to the entity requesting it to remedy the deficiency within 30 days. If the deficiency is not remedied within the deadline the CSP has to report the entity to the FSA for the year 2015 in June 2015, for the year 2016 in March and September 2016 and for further years in March, June, September and December (s. 12.2 Code for ICSPs). Within the same timeframes the CSP has to report to the FSA also if no entity has been found to be non-compliant. Where a CSP fails to submit the report to the FSA or where an entity in the CSP's portfolio is found to be non-compliant without being reported by the CSP, the CSP is liable to sanctions either under the ICSP Act or the FSA Act which include a penalty of SCR 500 (EUR 35) for each day of the default or suspension or revocation of the CSP's licence (see further section A.1.6).

45. The IBC Amendment Act, 2013 broadened the possibility to strike-off an IBC by cases where it fails to comply with a request for information from the Seychelles Revenue Commission or fails to pay a penalty imposed by the FSA (s. 2(i) IBC Amendment Act, 2013). Struck-off IBC cannot commence legal proceedings, carry on any business or in any way deal with its assets and its directors or members cannot make any claim or claim any right for the IBC or act in any way with respect to the affairs of the company (s. 99 IBC Act). The struck-off IBC can be reinstated by the Court within three years if it remedies all its deficiencies and pays all outstanding penalties and fees (s. 99 IBC Act). After lapse of the three year period the IBC is deemed dissolved (s. 101 IBC Act).

46. Where a company has been struck off, the CSP acting as its registered agent continues to hold at its office in the Seychelles the share register of the company as the share register forms part of the registered agent's CDD documentation under the AML rules (AML Regulation 3). The share register of struck off companies is required to be kept for at least seven years in line with the registered agent's obligation under the AML rules (s. 5 AML Regulation 8). As described above where the name of a company has been struck off the Register, the company, its directors or members may not legally act in any way with respect to the affairs of the company. Contact details of these persons however remain to be kept by the registered agent as part of the CDD documentation which can be requested by the the Competent Authority or supervisory authorities.

In practice

47. Ownership information in respect of companies covered by the Companies Ordinance, i.e. all types of companies except for IBCs, is kept by the Registrar of Companies. Pursuant to section 114 of the Companies Ordinance, 1972, all companies incorporated under this Ordinance are required to file an annual return to the Registrar of Companies that includes a list containing the names and addresses of all the members of the company. The Phase 2 report concluded that considering the information included in the annual return submitted to the Registrar of Companies, the share register which requires to be kept at the registered office of the company, as well as the practical operation of these arrangements, ownership information regarding companies incorporated under the Companies Ordinance, 1972 is available in the Seychelles.

48. There has been no change reported by the Seychelles in supervisory practices in respect of these companies. The average level of compliance continues to be between 80-90%. The obligation to file annual return is closely monitored by the Registrar as a fee must be paid along with the submission of the annual return. A company failed to provide a return and a notice was issued by the Registrar in about 250 cases in 2012, 160 cases in 2013 and 100 cases in 2014. Further, the registrar reported that over the last three years 58 companies were publicly listed as non-compliant companies. If a company refuses to co-operate with the Registrar and file its annual reports it can be struck off from the register. During the last three years 58 domestic companies were struck off as well as 64 CSL companies.

49. It is also noted that all companies except for IBCs are required to file annual tax returns with the SRC. The compliance rate for companies' tax filing obligations was at about 90% over the last three years. Ownership information is not required to be filed within the annual tax returns nevertheless it is included in company's financial statements which can be requested by the SRC. According to the Seychelles authorities in all cases where the ownership information was requested by the SRC the company provided the information.

50. Ownership information in respect of IBCs is required to be available with the CSPs in its office in the Seychelles. This obligation is based on the requirements of the IBC Act, the ICSP Act and AML rules. Compliance with this obligation is supervised by the licensing authority, i.e. Financial Services Authority (FSA, former SIBA) and the FIU.

51. Since the Phase 2 review the Seychelles conducted a comprehensive review of the supervisory and enforcement practice in respect of IBCs. A new licensing authority has been established by the Financial Services Authority Act, 2013 (FSA Act). The new law establishing the Financial Services Authority (FSA) came into operation on 1 March 2014. Responsibilities of the authority include supervision, monitoring and regulation of licensees'

obligations under the financial services legislation,² monitoring and regulation of IBCs obligations and reviewing or determining applications for financial services licences (s. 4(1) FSA Act).

52. In order to carry out its responsibilities the FSA can request any person engaged in or related to any financial services business to furnish such information as the FSA may specify (ss.15 and 16 FSA Act). Further, the FSA can for the purpose of verifying compliance with the financial services legislation inspect the premises and business of licensees and other relevant persons, inspect their assets or examine and make copies of documents belonging to or in the possession or control of licensees or other relevant persons (s. 24 FSA Act).

53. The FSA comprises 11 sections staffed with 98 employees out of which 16 are devoted to compliance inspections. During 2013, 2014 and the first half of 2015 the FSA inspected all 65 CSPs and verified compliance of 10 505 IBCs (11.8% of active IBCs or 6.6% of all IBCs). Where the FSA has identified non-compliance with IBCs record keeping requirements financial sanctions have been imposed on the IBC and the CSP if found in breach of his/her obligations. In cases where the IBC remains non-compliant, the FSA notifies the IBC of the intended striking off. Unless the IBC complies, the FSA initiates the striking off of the IBCs, as provided for under section 97 of the IBC Act, i.e. in case of continued non-compliance the IBC is struck off by the FSA within 150 days since identification of the deficiency.

54. The table below specifies the number of cases where non-compliance with record keeping requirements was identified.

Period under review	Share Register	Director Register	Accounting Records
2013	133	65	294
2014	225	220	1 069
January-June 2015	111	77	376
Total non-compliance for the reviewed period	469	362	1 739
IBCs which complied following application of enforcement provision	441	337	1 424
IBCs struck off as of July 2015	22	20	186
IBCs remaining non-compliant as of July 2015	6	5	129

2. Financial services legislation comprises International Corporate Service Providers Act, Securities Act, Mutual Fund and Hedge Fund Act, International Trade Zone Act, Companies (Special Licenses) Act, Protected Cell Companies Act, Interactive Gambling Act, Insurance Act and Hire Purchase and Credit Sale Act.

55. As the table shows out of the 10 505 inspected IBCs 469 were found non-compliant with their requirement to keep share register at the registered office in the Seychelles which represents 4.5% of inspected IBCs or 0.5% of active IBCs. The most common deficiency was that the register was not available at the registered office. In a very few cases, the register did not contain all mandatory information as required under the law. The total amount of applied financial sanctions for these failures was USD 3 520 in 2013, USD 6 673 in 2014 and USD 8 972 in the first half of 2015. The average amount of paid sanctions appears low and it is recommended to be increased to strengthen efficiency of financial sanctions application. IBCs that remain non-complaint after application of sanctions are struck off the register. As the last row of the table shows not all IBCs which remained non-compliant in the reviewed period were struck off. Nevertheless in all these cases the process of striking off was initiated and proceeds in accordance with the IBC Act.

56. The second supervisory authority verifying availability of ownership information in respect of IBCs is the FIU. During an on-site inspection, the FIU checks, amongst other things the CSP's policy and procedure for the conduct of CDD requirements under the AML legislation and audits a sample of files kept by the CSP to verify whether all documents required by law are kept. During an on-site inspection the FIU examines between 15%-20% of the files held by the CSP. Based on the evidence gained during the inspection or other indicia the sample can be further increased. The FIU conducted two on-site inspections in 2012, six inspections in 2013 and six inspections in 2014. According to the FIU the number of inspections is based on AML/CTF risks, the number of Egmont and Interpol enquiries; information received from local and other intelligence and investigation sources, as well as inter-agency contact including with the FSA. In addition, the inspection statistics do not include other enquiries by the FIU such as relating to the beneficial owners of property purchased by companies incorporated in the Seychelles.

57. The results of the FIU's on-site inspections show that most of identification documents are maintained in the files, including information on beneficial owners. In four cases where the CSPs were not able to provide the actual identification documents, they were able to produce and relied on copies of the share register and register of directors. The FIU has reported that most identified deficiencies related to not keeping a procedure manual which gathers together all of the principles that are provided by law or shortcomings in relation to CSP's staff training in AML requirements.

58. It is also noted that various types of information were requested from CSPs by the FIU for AML EOI purposes. The FIU requested information from CSPs in 126 instances in 2012, 239 in 2013 and 363 in 2014. The complete requested information was respectively provided in 81, 196 and 324 of

these cases. However there was no case where information on legal owners as required under the current standard was not available with the CSP.

Conclusion

59. Ownership information in respect of companies is required to be available in the Seychelles in line with the international standard. Implementation of these obligations now ensures that the relevant ownership information should be also available in practice. Over the period under review the Seychelles received three EOI requests for ownership information. All requests related to ownership information in respect of IBCs. The requested information was obtained and provided in all cases and in a timely manner as confirmed by peers. Some of the measures ensuring availability of ownership information in respect of IBCs were implemented only recently and there is insufficient evidence to confirm their effectiveness in practice. It is also important that the newly introduced measures continue to be consistently applied in the future to ensure their positive impact on CSPs' and IBCs' overall compliance. These measures include (i) strengthened supervisory and enforcement activity by the FSA, (ii) prohibition of bearer shares (see below); (iii) IBCs' requirement to provide declaration of compliance with its ownership and accounting obligations under the Seychelles law to the CSP; (iv) CSPs obligation to monitor compliance of their clients with record keeping obligations and periodically report results of this monitoring to the FSA; and (v) obligation to maintain share register at the CSP's office in all cases. In view of the recently introduced measures which ensure that the relevant information should be available also in practice it is recommended that the Seychelles monitor the practical implementation of these measures to ensure that ownership information in respect of IBCs is available in all cases.

Bearer shares (ToR A.1.2)

60. The Phase 2 review identified an issue in respect of practical implementation of rules ensuring that information on holders of bearer shares issued by IBCs is in practice available in the Seychelles. The Phase 2 report concluded that the system to record the transfer of bearer shares in the Seychelles contains weaknesses and that bearer shareholders can remain undetected by the CSP or the Seychelles' authorities for a potentially extended period of time, until the transferee notifies the registered agent. Accordingly, a holder of a bearer share could, in effect, remain anonymous until the point where it was necessary to exercise his/her rights in the company. This would prevent information about the holder of such shares being available in all instances in the Seychelles.

61. To address the identified gap the Seychelles has amended its law. The IBC Amendment Act, 2013 came into force on 16 December 2013. The amendment prohibits issuance of bearer shares by IBCs and provides for transitional rules in respect of already issued bearer shares. The amendment states that:

- the director of an IBC shall not issue any bearer shares on and after the commencement of the amendment act (s.3(3) IBC Amendment Act, 2013).
- Every company which has issued bearer shares prior to the commencement of the amendment act shall recall such shares within six months from the date of such commencement and the company shall issue registered shares in substitution for the cancelled bearer shares (s.3(1)).
- Any bearer shares which have not been recalled and cancelled within that period of six months shall thereafter be null and void (3(2)).
- A shareholder means a person registered as a shareholder in the IBC's share register kept at the IBC's registered office in the Seychelles (2(a)).

62. As a consequence the Seychelles law does not provide for issuance of bearer shares by any type of company and bearer shares issued by IBCs are legally void since 16 June 2014. Consequently, a person holding such shares after 16 June 2014 cannot claim its ownership or any resulting shareholder rights in the IBC.

63. In practice, from a review of its records as at June 2013, the SIBA reported that out of 120 000 IBCs incorporated in the Seychelles at that time about 7 000 had issued bearer shares (i.e. 6%). After June 2014, the FSA took several measures to ensure compliance with the obligation to abolish issued bearer shares and to enter all shareholders into the share register. The FSA initiated struck off of 662 IBCs which failed to identify all their shareholders. Out of these 443 were already struck off and 229 are still in the process as provided under section 97 of the IBC Act. The FSA directed the CSPs to provide the FSA with the names of all active IBCs (not struck off or dissolved) under their administration that have issued only bearer shares and have failed to recall and cancel these bearer shares within the six-month transition period. As these IBCs are legally without shareholders they are being struck off. In accordance to the FSA files approximately 2 342 IBCs have recalled and cancelled their issued bearer shares and have issued registered shares in substitution for the cancelled bearer shares. Although the compliance with obligation to recall and cancel bearer shares appears to be rather low it is noted that after June 2014 bearer shares are declared legally void and cannot constitute ownership in a company. According to the legal advice provided

by the Seychelles Authorities from the moment when bearer shares have been declared null and void, the bearer shareholders lost all their ownership rights and there is nothing they can do to claim back their ownership in court since the law clearly provides that their bearer shares no longer exist and the company is owned by persons entered in the share register. Nevertheless there has been no case where a person would claim ownership in a company based on bearer shares after June 2014 to test this.

Conclusion

64. The IBC Amendment Act, 2013 prohibits issuance of new bearer shares since 16 December 2013 and all previously issued bearer shares are considered legally void after 16 June 2014. Although the new legal regulation should ensure that ownership information in respect of companies which issued bearer shares is available its implementation remains to be fully tested especially in respect of registration of all holders of abolished bearer shares in the share register and expiry of ownership rights based on bearer shares after June 2014. Therefore it is recommended that the Seychelles monitor its implementation so that information on all shareholders of IBCs is available in practice.

Partnerships (ToR A.1.3)

65. Partnerships can be established in the Seychelles under the Civil Code, 1976 or under the Limited Partnership Act, 2003. As at December 2014 there were 15 partnerships established under the Civil Code and 28 limited partnerships registered in the Seychelles.

66. Partnerships incorporated under the Civil Code must register with the Registrar of Companies and file, within 3 months after they commence to use the business name, a statement containing among other the names and registered addresses of all their partners. Further, partnerships established under the Civil Code are required to register with the tax administration and file tax returns containing the name of each of the partners as well as details of the distribution of profits amongst them. Accordingly, the Phase 2 report concluded that the identity of partners is available within the hands of registration authorities or the Revenue Commission or at least in the partnership deed to be kept by the partnership itself. It further concluded that in practice, this information can easily be retrieved from the partnership's records by the SRC in the event that an incoming request is received. There has been no change since the Phase 2 review in respect of the legal obligations or supervisory practices concerning availability of ownership information on partnerships established under the Civil Code. The compliance rate with partnerships' tax filing obligations was at about 77% over the last three years.

Tax filing obligations are however not the only source of ownership information and the information is primarily available with the partnership itself or the Registrar of Companies.

67. Limited partnerships created under the Limited Partnership Act cannot carry on business in the Seychelles and are not required to register for tax purposes or to file tax returns. However, they are required to register with the FSA (formerly SIBA) and provide among others address of the registered office in the Seychelles and identity of its general partners.

68. The Phase 2 report concluded that while ownership information is not directly available to registration authorities and the Revenue Commission as part of registration the designated general partner is required to maintain or cause to be maintained at the limited partnership's registered office in the Seychelles a register containing the partners' names and addresses. This Register must be updated within 21 days of any change in the particulars therein. Further, the provision of a registered office for limited partnerships can only be undertaken by CSPs. Practical availability of such information with CSP is supervised by the FSA or in case where a CSP is also a general partner of the partnership by the FIU under the AML Act 2006.

69. Since the Phase 2 review the Seychelles introduced obligation for CSPs to monitor compliance of their clients including limited partnerships with record keeping obligations and report results of this monitoring to the FSA. Record keeping obligations in respect of limited partnerships cover obligation to maintain (i) the register of partners and (ii) the accounting records (or where the accounting records are kept at a place other than its registered office, a written notification of the physical address of that place). Upon detection of a failure to keep such records the CSP is required to send a notice to the entity requesting it to remedy the deficiency within 30 days. If the deficiency is not remedied within the deadline the CSP has to report the entity to the FSA (s. 12.2 Code for ICSPs). Where a CSP fails to report to the FSA the CSP is liable to sanctions either under the ICSP Act or the FSA Act (see further section A.1.1 and A.1.6). As the obligation was introduced only recently and first reporting was due in June 2015 its implementation is not yet tested in practice. The Seychelles are therefore recommended to monitor its proper implementation.

70. Further, the restructuring of supervision of CSPs and creation of the FSA has had impact also on the supervision and enforcement of obligation to maintain information on partners in limited partnerships. As of July 2015 there are 14 CSPs who have LPs under their administration. Out of 28 registered limited partnerships, four have been dissolved and 12 were deemed inactive (43%) as they did not pay annual fees and did not submit annual returns under the LP Act. These LPs have been subjected to a daily penalty of USD 25. Nevertheless in view of their continuing non-compliance, the FSA

initiated in June 2015 the deregistration process of all these LPs in accordance with the LP Act which is currently in the process. In 2015 the FSA has inspected all 12 active limited partnerships to verify their record keeping requirements and no issue in respect of their compliance with these obligations was identified. These supervisory and enforcement measures were started only recently. It is therefore important that they are completed swiftly and continue to be consistently applied.

71. AML supervision of CSPs acting as partners in limited partnerships is organised in the same way as in respect of other CSPs (see further section A.1.1). The FIU has reported that identified deficiencies do not relate to missing documentation identifying partners in partnerships.

Conclusion

72. The legal and regulatory framework in the Seychelles ensures that ownership information regarding partnerships is required to be available. The relevant legal provisions are properly implemented in the Seychelles to ensure that ownership information regarding partnerships is available. Information on partners in a partnership established under the Civil Code is available in the Registry of Companies, and it can be accessed at the registered address of the partnership in the Seychelles. Identification of partners in a limited partnership is available with the CSP. Although the Phase 2 report did not identify an issue in respect of availability of ownership information on partnerships the Seychelles has recently introduced measures to further strengthen limited partnerships' compliance with their record keeping obligations. It is important that these measures are implemented swiftly and continue to be consistently applied in the future to ensure their effectiveness in practice. The Seychelles are therefore recommended to monitor their proper implementation.

Trusts (ToR A.1.4)

73. The Seychelles law provides for establishment of trusts under the International Trust Act, 1994. A trust can be set up where the settlor is not at any time during the life of the trust resident in the Seychelles and where at least one trustee is resident in the Seychelles and no trust property is situated there (section 4(1)(a)(b)(c) International Trust Act). When creating a trust, it is a requirement that the settlor engages a local international trustee service provider (TSP) licensed by the FSA to conduct international trust business under the ICSP Act. A trust is required to be registered by the TSP with the FSA however no identification of the settlor or beneficiaries is required to be provided. As of December 2014 there were 606 trusts registered with the FSA. A trust is not liable to tax and therefore is not required to register with

the SRC and to file a tax return. The identification of trustee, beneficiary and settlor is required to be kept by the TSP under the International Trusts Act and under the AML/CFT Act regardless under which law the trust is created.

74. There has been no change in the obligations described above since the Phase 2 review which concluded that the Seychelles' law ensures that ownership information in relation to trusts is available in the Seychelles.

75. TSPs obligations to keep identification of the settlor and beneficiaries of a trust of which they act as a trustee are subject to supervision by the FSA and the FIU. As in the case of CSPs, all TSPs are inspected within one year of licensing and their records are audited. Further inspection of all TSPs is part of the second round of reviews which commenced in 2015 and it is expected to be completed in September 2015. During this round of reviews the FSA has so far inspected one out of 20 TSPs. The FSA inspected all 95 trusts administered by the TSP representing 16% of trusts registered in the Seychelles. Out of the 95 trusts inspected 88 (93%) were fully compliant with the requirement to keep registers of settlors, trustees and beneficiaries. The FSA has initiated procedure to apply fines in respect of the remaining seven trusts in accordance with section 29(4) of the International Trusts Act. It is important that the FSA completes inspection of TSPs swiftly and sanctions are effectively applied in cases where deficiencies are identified.

76. Records maintained by TSPs are also inspected by the FIU based on risk-based approach. The FIU inspected three TSPs in 2013 and two in 2014. Similar issues as in respect of CSPs were identified. Most deficiencies related to failure to update identification documentation and lack of internal audit in breach of the audit cycle established in accordance with the AML/CFT Manuals of TSPs.

Conclusion

77. The legal and regulatory framework in the Seychelles ensures that information on the settlor, trustee and beneficiaries of trusts is required to be available in the Seychelles through a TSP. The relevant legal provisions are properly implemented to ensure practical availability of the information. The FSA recently further strengthened its supervisory and enforcement activity to ensure that the required information is actually kept in practice. Nevertheless it is important that these measures are implemented swiftly and continue to be consistently applied to ensure their effectiveness in practice. The Seychelles are therefore recommended to monitor their proper implementation.

Foundations (ToR A.1.5)

78. The Seychelles law provides for establishment of foundations under the Foundations Act, 2009. As described in the Phase 2 report foundations are required to be registered with the FSA. As of December 2014 there were 421 foundations registered with the FSA.

79. The registered agent (i.e. CSP) is required to submit the foundation charter upon registration with the FSA. The foundation charter must specify, amongst other things, the name and address of the founders; the name and address of the foundation's registered office and its registered agent in the Seychelles; the names and address of each of the initial members of the foundation council. The charter may also provide the name and address of the beneficiaries. Foundations are not required to be registered with the SRC. All foundations must keep at their registered offices in the Seychelles, registers containing information not only on the members of the foundation council but also on beneficiaries and founders of foundations (Foundations Act s. 77), foundation protector (supervisory person) and any (non-councillor) authorised agent or power of attorney holder. Further, all foundations are required to have a registered agent (i.e. CSP) in the Seychelles, licensed under the ICSP Act. This Act requires CSPs to know and be able to identify all parties to a foundation (paragraph 1, Schedule 3).

80. In view of the above obligations the Phase 2 report concluded that the Seychelles law requires that ownership information in relation to foundations is available in the Seychelles. Since the Phase 2 review the Seychelles introduced further obligation which strengthens availability of the required information in the Seychelles. CSPs are required to monitor compliance of administered foundations with their record keeping obligations and report results of this monitoring to the FSA. Record keeping obligations in respect of foundations cover obligation to maintain (i) registers under section 77 of the Foundations Act which include information on founders, members of the foundation council and beneficiaries of the foundation and (ii) the accounting records (or where the accounting records are kept at a place other than its registered office, a written notification of the physical address of that place). Upon detection of a failure to keep such records the CSP is required to send a notice to the entity requesting it to remedy the deficiency. If the deficiency is not remedied within the deadline the CSP has to report the entity to the FSA (s. 12.2 Code for ICSPs) (see further section A.1.1 and A.1.6). As the obligation was introduced only recently and first reporting was due in June 2015 its implementation is not yet tested in practice. The Seychelles are therefore recommended to monitor its proper implementation.

81. In practice the source of ownership information in respect of a foundation is the CSP which is required to be engaged by the foundation as its registered agent in the Seychelles. There is no difference in supervision of

CSPs obligations to maintain information in respect of foundations or other entities (see further section A.1.1). CSPs acting as registered agents of foundations are supervised by the FSA and by the FIU. Inspections of all CSPs administering foundations are part of the second round of reviews. As in case of TSPs inspections of CSPs administering foundations commenced in 2015 and are expected to be completed in September 2015. Out of 12 CSPs administering foundations the FSA has so far inspected four. During these inspections the FSA inspected all foundations administered by these CSPs representing 29% of foundations registered in the Seychelles. Out of the 122 foundations inspected 111 (91%) were compliant with the requirement to keep register of councillors, 113 (93%) were compliant with the requirement to keep register of registered agents, 93 (76%) were compliant with the requirement to keep register of beneficiaries and 113 (93%) were compliant with the requirement to keep register of founders. The FSA has initiated procedure to apply fines in respect of the non-compliant foundations in accordance with section 77(5) of the Foundations Act. It is important that the FSA completes its plan of inspections swiftly and sanctions are effectively applied in cases where deficiencies are identified.

82. Records maintained by CSPs administering foundations are also inspected by the FIU based on risk-based approach. AML supervision of these CSPs is organised in the same way as in respect of other CSPs (see further section A.1.1). The FIU has reported that identified deficiencies do not relate to missing information identifying the relevant persons in the foundation.

Conclusion

83. The legal and regulatory framework in the Seychelles ensures that information on the foundation's founders, members of the executive board and beneficiaries is required to be available in the Seychelles. The information is required to be available at the registered address of the foundation in the Seychelles by a CSP. The Seychelles has recently introduced measures to strengthen foundations' compliance with their record keeping obligations. Nevertheless it is important that these measures are implemented swiftly and continue to be consistently applied to ensure their effectiveness in practice. The Seychelles are therefore recommended to monitor their proper implementation.

Enforcement provisions to ensure availability of information
(ToR A.1.6)

84. The Phase 2 report concluded that when relevant entities are required to have ownership information available under the Seychelles' laws, these requirements are supplemented by sanctions in cases where these obligations are not complied with. However the Phase 2 report identified three issues concerning their practical application. Firstly, although the copy of the share register or details of the location of the share register is kept at the CSPs' office, CSPs are not legally bound to maintain or update them. The responsibility to update the share register lies with the IBC itself and not with the CSP who consequently cannot be effectively sanctioned for failure to keep them accurate. Secondly, while IBCs that do not comply with their legal obligations to maintain share registers are also subject to sanctions, these had never been applied in practice and it was not possible to clearly understand in what circumstance the SIBA would directly apply fines to the IBCs concerned should ownership information not be kept or not be updated. Thirdly, as regards bearer shares, where there is a legal obligation on the CSP it seems unlikely that such a sanction would always be appropriate as the CSP will be not be in a position to be legally responsible for inaccuracy of the available information.

85. In order to address the identified issues the Seychelles has taken several legal and practical measures. The Seychelles has strengthened its enforcement provisions and increased supervisory and enforcement activity of the supervisory body (i.e. FSA former SIBA).

86. In December 2013 the IBC (Amendment) Act, 2013 came into force that:

- increased sanctions for not keeping share register in accordance with the Seychelles law – a company in breach of its obligation to maintain updated share register in the CSP office in the Seychelles is liable to a penalty of USD 100 and to an additional penalty of USD 25 for each day or part thereof during which the contravention continues. The same sanction is also applicable to a director who knowingly permits the contravention (s. 2(d) IBC (Amendment) Act, 2013);
- broadened the possibility of striking off of IBCs – company can be newly struck off from the register if it fails to comply with a request for information from the SRC or if it fails to pay any penalty imposed by the FSA (s. 2(i) IBC (Amendment) Act, 2013);
- introduced sanctions for providing false declaration of IBC's compliance with obligation to maintain updated share register in the CSP office in the Seychelles – a company that provides such false declaration is liable to a penalty of USD 100 and to an additional penalty of

USD 25 for each day during which the contravention continues. The same sanction is also applicable to a director who knowingly permits the contravention (s. 2(j) IBC (Amendment) Act, 2013); and

- abolished bearer shares – new bearer shares cannot be issued after 16 December and existing bearer shares are legally void since 16 June 2014 (s. 3 IBC (Amendment) Act, 2013).

87. The IBC Act amendment came into force in December 2013 and started to be applied since 2014. The FSA applied increased sanctions for IBCs' non-compliance with ownership record keeping requirements in 225 cases in 2014 and in 111 cases in the first half of 2015 and in 1 069 cases and 376 cases respectively in respect of IBCs' non-compliance with accounting record keeping obligations. The process of striking off for failure to pay penalty fees was initiated in respect of 22 IBCs in 2014 and 39 in 2015. 662 IBCs are in the process of being struck-off for failure to identify their shareholders following abolition of bearer shares.

88. Further, the FSA applied several enforcement measures in respect of CSPs and IBCs in accordance with the FSA Act or other financial services legislation (see the table below).

Enforcement measure	2012	2013	2014
Direction to CSP to address deficiency	5	51	61
Suspension of CSP licence	0	2	6
Revocation of CSP licence	3	0	6
Initiated striking off of IBCs for failure to have registered agent	468	79	191
Total amount of administrative penalty applied	USD 5 859	USD 66 231	USD 6 044

89. In March 2015 the Seychelles introduced new requirement on CSPs to monitor IBCs', limited partnerships' and foundations' compliance with their record keeping obligations (including obligation to keep updated ownership information) and report any non-compliant entity under their administration to the FSA (section 12.2 Code for ICSPs). If it is found that a non-compliant entity was not reported by the CSP the CSP is subject to enforcement action by the FSA. The FSA can take enforcement action either under the ICSP Act or FSA Act. Under section 13 of the ICSP Act the CSP is liable to a penalty of SCR 500 (EUR 35) for each day during which the default continues or the FSA may suspend or revoke the CSP's licence under section 14 and 15. Section 33 FSA Act, provides that by failure to comply with its obligation under the Code for ICSPs the CSP commits an offence and is liable on conviction to a fine not exceeding SCR 200 000 (EUR 14 150). The CSP's licence can be suspended or revoked also under section 27 of the FSA Act. It is however noted that the new reporting obligation on CSPs was

only introduced in March 2015 and the first reporting by CSPs was done in June 2015. Therefore, the FSA is yet to test this requirement during inspections and sanction the CSPs accordingly. The Seychelles should monitor implementation of this new obligation and take effective enforcement measures in cases where CSPs fail to correctly report to the FSA.

Conclusion

90. Since the Phase 2 review the Seychelles has taken measures which significantly raised effectiveness of its enforcement provisions. An IBC which does not maintain accurate ownership information available in the Seychelles can be struck off from the register and the company and its directors are subject to monetary penalties. CSPs are required to monitor compliance of entities under their administration with record keeping obligations and report results of this monitoring to the FSA. Over the last three years the FSA also significantly increased number of inspections, inspected IBCs’ files and applied sanctions including strike offs of IBCs. Nevertheless considering that these measures are only recent and relate to a relatively high number of entities there is not sufficient evidence to confirm their positive impact in practice in respect of all entities. Further, it is important that these measures continue to be consistently applied also in the future to ensure their effectiveness in practice. In view of this it is recommended that the Seychelles monitor practical implementation of its enforcement provisions and recently introduced measures to ensure that the ownership information in respect of relevant entities and especially IBCs is available in all cases.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place	
Phase 2 rating	
Largely Compliant-Non-Compliant	
Factors underlying Recommendations	Recommendations
There are currently no effective sanctions in the event that ownership information in relation to IBCs is not available.	The Seychelles should have effective enforcement provisions to ensure that up-to-date ownership information in relation to IBCs is available to its authorities in all instances.

Phase 2 rating	
Largely Compliant-Non-Compliant	
Factors underlying Recommendations	Recommendations
When a copy of the share register is not kept at the office of the CSP but at another place in the Seychelles, there is no monitoring system in place to make sure that ownership information is available.	The Seychelles should monitor the availability of ownership information irrespective of the place where such records are kept.
Although legal requirements have been introduced for the reporting of ownership information in relation to bearer shares, in practice there are situations where transfers of bearer shares are not notified to the company's registered agent.	The Seychelles should ensure that information on the owners of bearer shares is available within the Seychelles in all cases.
<u>Measures to improve availability of ownership information in the Seychelles were introduced only recently and need to be consistently applied also in the future. These measures include in particular (i) strengthened supervisory and enforcement activity by the FSA, (ii) prohibition of bearer shares, (iii) IBCs' requirement to submit declaration of compliance with its ownership obligations under the Seychelles law and (iv) CSPs' obligation to report compliance of their clients with record keeping obligations to the FSA.</u>	<u>The Seychelles should monitor practical implementation of the recently introduced measures to ensure that ownership information in respect of IBCs is available in all cases.</u>

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

General requirements (ToR A.2.1)

Domestic entities

91. The Phase 2 report concluded that companies established under the Company Ordinance, 1972 and partnerships incorporated under the Civil Code, 1976 are required to maintain accounting records in line with the standard and that such information should be available in practice. There has been no change in accounting record keeping obligations since the Phase 2 review. The key obligations are contained in section 139 of the Company Ordinance, 1972 and section 32 of the Revenue Administration Act, 2009.

92. Companies incorporated under the Companies Ordinance and general partnerships are required to submit audited accounts to the Registrar of Companies. The level of compliance with the filing obligation continues to be between 80-90%. Failure to file annual return with the audited accounts is monitored and sanctioned by the Registrar as a fee must be paid along with the submission of the annual return. During the last three years 58 domestic companies were struck off for continued non-compliance with their filing obligations with the Registrar. Accounting record keeping is also monitored by the SRC, which has a programme of tax audits to check the accuracy of accounting data. The programme contains audit targets for a two year period and sets plans for volume and types of audits to be performed including risk assessment criteria. The level of compliance with obligation to submit annual tax returns was 84% in 2014. Accounting records form basis of domestic corporate taxation and are required to be provided during each tax audit. The SRC conducted 277 audits in 2012, the same number in 2013 and 278 in 2014. The SRC has not encountered serious issues in obtaining the accounting information. If a taxpayer does not furnish a proper set of accounts substantiating his tax base, the SRC levies tax based on estimate which puts the burden of proof on the taxpayer and according to the Seychelles authorities works as an effective deterrent. Tax assessments based on estimate were issued in one case in 2012, 12 cases in 2013 and in 20 cases in 2014.

Offshore entities

93. The Phase 2 report concluded that accounting record requirements in line with the standard are in place in respect of all offshore entities (i.e. IBCs, limited partnerships, international trusts and foundations). Although these obligations are stipulated by different laws (i.e. the Limited Partnerships

(Amendment) Act 2011 (s. 11A), International Trusts (Amendment) Act 2011 (s. 29), and Foundations (Amendment) Act 2011 (s. 75)) they are almost identical and mirror those contained in the IBC Act.

94. Section 65 of IBC Act as amended on 27 December 2011 specifically requires IBCs to keep accounting records that:

- are sufficient to show and correctly explain the IBC’s transactions;
- enable the financial position of the IBC to be determined with reasonable accuracy at any time; and
- enable the accounts of the IBC to be prepared.

95. Section 2 of the same law defines “accounting records” as documents relating to assets and liabilities of the company, including receipts and expenditure, sales and purchases and other transactions. These accounting records must be kept at the registered office of the IBC or such other place as the directors think fit (s. 65(e)). If the records are not kept at the registered office, the IBC must inform the registered agent (s. 65(d)). Informing the registered agent of the address where the records are kept is also required when the place where they are kept has changed. An IBC which fails to comply with this obligation is liable to pay a penalty of USD 25 for each day for non-compliance (s. 65(f)). The same penalty applies to directors who knowingly fail to comply with this obligation (s. 65(g)).

96. The Phase 2 report noted that in practice accounting records are not usually kept in the Seychelles but at the place where business activities are carried out and service providers have reported that they would be unable to respond to a request for accounting information if requested by the SRC as they have no legal obligation to have the information. Neither would they ask the company for the information as they have no legal authority to do this. They could only provide the address at which the records were kept.

97. Further, in respect of sanctions for failure to keep accounting records the Phase 2 report concluded that as in most instances these records were not kept in the Seychelles the Seychelles’ authorities have not implemented any system to monitor the availability of this information. Consequently, the SIBA was not in a position to apply the sanctions provided by law if so needed. The Phase 2 report further continued that the SIBA indicated that a CSP could have its license suspended or revoked if IBCs do not comply with their obligations. However, CSPs considered that they could not be sanctioned in instances where the law does not require them to maintain records but only the address of the place where records are stored.

98. Since the Phase 2 review the Seychelles has taken several measures addressing these two issues. The Seychelles has:

- clarified supervisory powers of the FSA (former SIBA);
- introduced an obligation on the IBC to declare that accounting records in accordance with the Seychelles law are kept and can be made available through the CSP;
- introduced an obligation on CSPs to monitor compliance of their clients with accounting obligations and periodically report results of this monitoring to the FSA;
- broadened possibility of striking off of an IBC to include failure to pay penalties or to provide information requested by the SRC; and
- strengthened FSA supervisory and enforcement activity.

99. The new law establishing the Financial Services Authority (FSA) came into operation on 1 March 2014. Responsibilities of the authority include supervision, monitoring and regulation of licensees' obligations under the financial services legislation,³ monitoring and regulation of IBCs obligations and reviewing or determining applications for financial services licences (s. 4(1) FSA Act).

100. In order to carry out its responsibilities the FSA can request any person engaged in or related to any financial services business to furnish such information as the FSA may specify (ss.15 and 16 FSA Act). Person related to any financial services business should include also representatives of an IBC such as its directors or officers (s. 26(2)(a) FSA Act). Further, the FSA can for the purpose of verifying compliance with the financial services legislation inspect the premises and business of licensees and other relevant persons, inspect their assets or examine and make copies of documents belonging to or in the possession or control of licensees or other relevant persons (s. 24 FSA Act). These new amendments give FSA power to request accounting information from the CSP or directly from the IBC to verify compliance with requirement to keep accounting records.

101. If the requested documents are not provided the requested person is subject to sanctions specified in the FSA Act and the IBC Act. Under the FSA Act the FSA can impose administrative penalties provided for under the FSA Act or any other financial services legislation (e.g. IBC Act, ICSP Act), issue a direction or initiate investigation as may be necessary to ensure compliance

3. Financial services legislation comprises International Corporate Service Providers Act, Securities Act, Mutual Fund and Hedge Fund Act, International Trade Zone Act, Companies (Special Licenses) Act, Protected Cell Companies Act, Interactive Gambling Act, Insurance Act and Hire Purchase and Credit Sale Act.

with the FSA Act or any financial services legislation (s. 27(2) FSA Act). The administrative penalty under the FSA Act is SCR 2 000 (EUR 137) per day of contravention (s. 32 FSA Act). Under the IBC Act the person is liable to a penalty of USD 100 and to an additional penalty of USD 25 for each day during which the contravention continues (s. 65(1) IBC Act).

102. In December 2013 the IBC Amendment Act came into force which introduces an obligation of the IBC to submit to the CSP annually a declaration confirming IBC's compliance with its ownership and accounting requirements under the Seychelles law. The declaration must confirm that the company is keeping accounting records in accordance with the IBC Act and that such records can be made available through its registered agent. A company that is not able or refuses to provide accounting records (including underlying documentation) through its CSP will be considered as furnishing false, misleading or inaccurate return and subject to a penalty of USD 100 and to an additional penalty of USD 25 for each day during which the contravention continues. The penalty is also applicable to its director who knowingly permits this contravention (s. 2(j) IBC Amendment Act, 2013). IBCs were first required to file the declaration for year 2014, i.e. by 30 June 2015. Failure to submit such declaration should be reported by the CSP as part of his/her reporting obligations towards the FSA (s. 12.2 Code for ICSPs). If the CSP fails to report its clients failure to provide the declaration the CSP is liable to a penalty of SCR 500 (EUR 35) for each day during which the default continues or the FSA may suspend or revoke the CSP's licence (ss. 13-15 ICSP Act). In addition, under the FSA Act such CSP commits an offence and is liable on conviction to a fine not exceeding SCR 200 000 (EUR 14 150) and his/her licence can be suspended or revoked.

103. As described in section A.1, CSPs are newly required to monitor compliance of IBCs, limited partnerships and foundations with their record keeping obligations including obligation to keep accounting records (or where the accounting records are kept at a place other than its registered office, a written notification of the physical address of that place). A CSP is required to file periodically to the FSA report on his/her monitoring of entities' compliance with their requirement (i) to provide a written notification of the physical address where accounting records are being kept (if not kept in the registered office in the Seychelles) and (ii) to file annual declaration that they duly keep accounting records and that these records can be made available through the CSP. If the CSP fails to identify his/her clients failure to file the required information the CSP is subject to sanctions under the ICSP Act or the FSA Act which include a penalty of SCR 500 (EUR 35) for each day of failure or suspension or revocation of the CSP's licence (s. 12.2 Code for ICSPs) (see further section A.1.1 and A.1.6).

104. Further, the IBC Act has been amended to allow striking off of a company in case of its failure to respond to request for information from the

SRC or its failure to pay penalty imposed by the FSA (s. 2(i) IBC Amendment Act, 2013) (see further section A.1.6 and B.1.4).

105. As described in section A.1.1 since the Phase 2 review the FSA has inspected all 65 CSPs and verified compliance of 10 505 IBCs (11.8% of active IBCs). Where non-compliance was identified financial sanctions have been imposed on the IBC. In cases where the IBC remains non-compliant, the FSA notifies the IBC of the intended striking off and if non-compliance continues the FSA initiates the striking off of the IBCs. Non-compliance with accounting record keeping requirements was identified in 294 cases in 2013, in 1 069 cases in 2014 and in 376 cases in the first half of 2015 totalling 1 739 IBCs over the reported period. This means that 16.5% of IBCs inspected over the last two and half years or 1.9% of active IBCs were found non-compliant. The most common deficiency identified was in relation to the written notification of the location of accounting records. In a majority of cases, IBCs had certain notification available. However, such notifications were either not the ones which the FSA considered to be acceptable (e.g. simple emails, order forms, etc.) or the FSA was unable to ascertain that the person(s) furnishing the written notification to the CSP was authorised to issue such notification. In order to ensure that all CSPs and IBCs are aware of what documentation is acceptable by the FSA for such notifications, section 23 of the IBC Guidelines was amended accordingly. In all cases where non-compliance was identified financial sanctions were applied. The total amount of fines applied for failure to keep accounting records was USD 5 772 in 2013, USD 60 316 in 2014 and USD 71 443 up to 17 July 2015. An IBC was struck off from the register for non-compliance with record keeping obligations in 0 cases in 2013, in 51 cases in 2014 and 135 cases up to 17 July 2015.

106. During inspections the FSA checks availability of accounting records kept by the CSP in the Seychelles and whether annual declaration confirming client's compliance with its accounting requirements under the Seychelles law is filed with the CSP. If the accounting records are not kept in the Seychelles, which is in majority of cases, the FSA checks whether proper notification of the place where these records are kept is filed with the CSP. Consequently, availability of the accounting records kept outside of the Seychelles is verified only through annual declaration of the entity that these records are kept and can be provided through the CSP who is also required to report to the FSA cases where such declaration is not made. It is therefore recommended that the Seychelles address this issue and adjust its supervisory practice as appropriate.

Underlying documentation (ToR A.2.2)

107. The Phase 2 report concluded that there are adequate legal provisions under the Seychelles law to ensure that the relevant entities and arrangement keep accounting underlying documentation in in line with the standard. These

provisions are contained in the Companies Ordinance, 1972; the IBC (Amendment) Act, 2011; the Limited Partnerships (Amendment) Act, 2011; International Trusts (Amendment) Act 2011 and Foundations (Amendment) Act, 2011. There has been no change in these obligations made since the Phase 2 review.

108. The obligation to keep underlying documentation is supervised by the same measures as described above in respect of accounting records.

5-year retention standard (ToR A.2.3)

109. Accounting records and underlying documentation are required to be kept for at least seven years. There has been no change made since the Phase 2 review in this respect.

110. In practice, the accounting records are kept by the company for at least seven years since the end of the respective financial year. According to the Seychelles authorities this is the case also for the struck off companies. The registered agent also continues to keep at its office the contact details of the client entity and the address of the location where accounting records are being kept as part of the registered agent's CDD documentation under the AML Act for at least seven years since the termination of their business relation (regardless of whether the client company has been struck off).

Conclusion

111. Accounting records and underlying documentation is required to be available in the Seychelles in line with the international standard. The Seychelles has taken steps since the Phase 2 review to improve availability of such information in practice especially in respect of IBCs that maintain their accounting documentation outside of Seychelles mainly through introducing reporting obligations of IBCs and CSPs and broadening possibility of striking off of an IBC. Nevertheless, these measures, in particular considering FSA's strengthened supervisory and enforcement activity, obligation to submit declaration of compliance with accounting obligations and CSPs' reporting obligation to the FSA were introduced only recently and there is insufficient evidence to confirm their effectivity in practice. This especially concerns the supervision of availability of accounting records kept outside of the Seychelles which is done through reporting obligations. It is also important that these measures continue to be consistently applied in the future to ensure their positive impact on overall compliance.

112. The Seychelles received only one EOI request for accounting information during the review period. The request related to accounting information of an IBC and the requested information was obtained and provided in a timely manner as confirmed by the peer.

113. Considering the limited experience with the newly introduced measures and importance of their consistent application in the future (in particular concerning strengthened supervisory and enforcement activity by the FSA in respect of accounting records kept outside of the Seychelles), it is recommended that the Seychelles monitor practical implementation of the recently introduced measures to ensure that accounting information in respect of relevant entities is available in all cases.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Phase 2 rating	
Largely Compliant Non-Compliant	
Factors underlying Recommendations	Recommendations
No system of monitoring compliance with accounting record keeping requirements is in place, which may result in the legal obligation to keep accounting records not being enforced. In addition, a number of accounting record keeping obligations have only been implemented since 1 January 2013 and are therefore untested in practice for EOI purposes.	The Seychelles' authorities should make sure that reliable accounting records for all relevant entities are available at all times.
There are no effective sanctions where IBCs do not keep accounting records and existing sanctions have never been applied in practice.	The Seychelles should put in place and exercise effective sanctions that ensure records for IBCs are available.
<u>Measures taken by the Seychelles to improve availability of accounting information were introduced only recently and need to be consistently applied also in the future. These measures particularly concern supervision and enforcement of obligation to maintain accounting information in accordance with the Seychelles law in cases where this information is kept outside of the Seychelles.</u>	<u>The Seychelles should monitor practical implementation of the recently introduced measures to ensure that accounting information in respect of relevant entities is available in all cases.</u>

A.3. Banking information

Banking information should be available for all account-holders.

Record-keeping requirements (ToR A.3.1)

114. All banks wishing to operate in the Seychelles must first be licensed by the Central Bank of the Seychelles (CBS). Ten banks are currently licensed, of which, seven are branches or subsidiaries of foreign banks.

115. Pursuant to the AML Act banks shall apply CDD measures in respect of customers, business relationships and transactions, and conduct on-going monitoring of business relationship as prescribed in regulations. Reporting entities must keep all records in relation to CDD for seven years.

116. The Phase 2 report concluded that the Seychelles law contains requirements to maintain banking information in line with the standard and that banking information should be available in the Seychelles. There has been no change since the Phase 2 review in respect of the key legal obligations or supervisory practices concerning availability of banking information as required under the reviewed standard.

117. Obligations to maintain banking information in accordance with the Seychelles law is supervised by the CBS and the FIU. The CBS reports that, on average, banks undergo on-site inspections every two years. Scheduled onsite inspections are based on the supervisory risks assigned to each institution upon completion of an inspection. Three full scope inspections were conducted in 2012, three in 2013 and two in 2014. In addition, one limited scope inspection was conducted in 2012 and six in 2014. These targeted inspections were based on analysis of returns submitted to the CBS as well as complaints from clients. The main deficiencies noted by the CBS during its inspections include weak management oversight especially relating to internal controls; lack of business continuity management; lack of policies and procedure manuals; IT risks; inaccuracies in returns submitted to CBS. Administrative sanctions were applied accordingly. No deficiencies in respect of lack of identity or transaction documentation in respect of customers' accounts were encountered. The CBS also noted high level of co-operation with banks.

118. Compliance by banks with their AML/CFT requirements is also reviewed by the FIU. The FIU established a round of on-site inspections of all entities and persons subject to the Seychelles' AML/CFT rules. As part of this cycle, and in addition to on-site inspections also conducted by the CBS, each of the seven branches or subsidiaries of foreign banks established in the Seychelles are inspected every 2/3 years. In-between targeted inspections can also take place. Fifteen staff works for the FIU of which four are dedicated to

compliance/regulatory functions. During 2012-2014 the FIU was engaged on a number of planned inspections across the financial institutions (e.g. bureau de changes) and other reporting entities carrying on a business other than a regulated business (e.g. real estate). As the level of compliance of banks with their AML/CFT obligations is generally high, none of them has been formally sanctioned for breach of AML/CFT principles. However, the FIU interacts with all banks on a day-to-day basis, providing both advice and, where necessary, corrective recommendations.

Conclusion

119. AML/CFT obligations are properly implemented to ensure that banking information is available in the Seychelles in line with the international standard. This has been also confirmed in practice. The CBS made 146 requests for bank information in 2013 and 194 requests in 2014. The FIU requested information from Seychelles' banks in 205 cases in 2012, in 404 cases in 2013 and in 391 cases in 2014. The requested information was provided in all instances. Finally, the Seychelles received one EOI request for banking information and the information was obtained and provided in time as confirmed by the peer.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant

B. Access to information

Overview

120. A variety of information may be needed in respect of the administration and enforcement of the relevant tax laws and jurisdictions should have the authority to access all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities.

121. The SRC (Seychelles Revenue Commission) has broad powers to collect information for “the purpose of administering any revenue law”. All accounts, documents and records, in respect of any person can be accessed by the tax authorities. This covers ownership, banking and accounting information. For domestic purposes, these powers are widely used by the SRC either to collect information by way of a notice or directly at the premises of the persons concerned, be they private or legal persons. These powers can be also used for exchange of information purposes regardless of domestic tax interest. The Seychelles received in total four EOI requests related to ownership, accounting and banking information during the periods under review, i.e. during the Phase 2 and the current period under review. The requested information was successfully collected by the Seychelles although it was not required for domestic purposes.

122. The Seychelles law does not provide for prior notification of the taxpayer subject of the request. Obtaining and providing of the requested information cannot be appealed by the taxpayer or the information holder.

123. The practices of the Seychelles’ authorities have demonstrated that available information is readily accessible for domestic purposes. Considering the Seychelles’ limited experience with obtaining information for exchange of information purposes, it is recommended that the Seychelles’ authorities continue to monitor exercise of access powers pursuant to EOI requests.

B.1. Competent Authority’s ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

124. The Seychelles competent authority for the purposes of exchange of information in tax matters is the Commissioner of the SRC (Seychelles Revenue Commission) designated by the Minister of Finance. Exchange of information is directly handled by the Revenue Commissioner’s office. Contact details of the Revenue Commissioner and the SRC have been disseminated across partner jurisdictions and are made available on the Competent Authority Database maintained by the Global Forum Secretariat.

Ownership, identity and banking information (ToR B.1.1) and Accounting records (ToR B.1.2)

125. The Phase 2 report concluded that the Seychelles law gives very broad access powers to the competent authority to ensure access to the requested information in line with the standard. Considering that at the time of the Phase 2 review the Seychelles had received only one request for information it was recommended that the Seychelles monitor their effective use for EOI purposes.

126. There has been no change in the Seychelles laws or practices since the Phase 2 review in respect of access to information for EOI purposes.

127. To answer an incoming request for information sent by a treaty partner, the SRC uses the powers granted by legislation for the collection of information for domestic purposes. When seeking to provide an answer to an incoming request, the SRC can first rely on information directly available to it. When the information is not already available to the SRC, the domestic information gathering measures will be used.

128. Pursuant to section 34(1) of the RAA, the Revenue Commissioner may for the purpose of administering any revenue law require any person (including offshore entities) to:

- furnish such information as the Revenue Commissioner may require;
- attend and give evidence concerning that person’s or any other person’s revenue affairs; and
- produce all accounts, documents and records in the person’s custody or under the person’s control relating to that person’s or any other person’s revenue affairs.

129. Under section 33 of the RAA the Revenue Commissioner or a revenue officer authorised by him:

- has the right, at all times and without notice to full and free access to any premises, place, property, data storage device, accounts, documents, or records and has further powers relating to making extracts and seizing the records and documents;
- may make an extract of copy of any accounts, documents, records or information stored on a data storage device;
- may seize any documents or records; and
- may retain any accounts, documents, or records seized as long as they may be required for determining a taxpayer's revenue liability or for any proceeding under a revenue law.

130. To access ownership, accounting or banking information, the Seychelles authorities use their domestic powers granted by section 34 of the RAA outlined above. The information is required to be provided within 14 days since delivery of the request notice to the information holder. When information cannot be gathered under section 34 of the RAA, the SRC uses powers granted by section 33 (i.e. search and seizure). It usually takes two weeks to collect information under this procedure.

131. Ownership information in respect of domestic entities (i.e. companies incorporated under the Companies Ordinance and partnerships set up under the Civil Code) is obtained from the Registrar of Companies or it is available to the SRC based on the entity tax filing obligations.

132. Ownership information in respect of offshore entities (i.e. IBCs, CSPs, protected cell companies, limited partnerships, international trusts and foundations) is requested by the SRC from the respective service provider (i.e. CSP or TSP) of the relevant entity.

133. Annual accounting reports of domestic entities are available directly with the Registrar of Companies and can be requested by the SRC. If more specific information is requested such as underlying documentation the information is obtained from the entity. Accounting information of offshore entities is obtained from the entity itself (or can be provided by its registered agent). Banking information is in all cases requested from banks under section 34 of the RAA.

134. The SRC can further use information contained in the government integrated data system which allows the SRC to access information kept by other agencies such as the Seychelles Licensing Authority, Immigration Authority or Agency for Social Protection. This enables the tax administration to have an overall view of a taxpayer which is used for risk profile

analyses and assessment of different tax and fees obligations. It also allows SRC to cross check information contained in its database with information provided to the other agencies such as contact details of taxpayers or their representatives.

135. The Seychelles has received in total four EOI requests during the periods under review, i.e. during the Phase 2 (1 July 2009 – 30 June 2012) and the current period under review (1 July 2012 – 31 December 2014). In all cases access power under section 34 of the RAA was used and the information was obtained. Ownership information was requested in all cases, accounting and banking information was requested in one case over the current period under review. There have been no issues encountered by the SRC in obtaining the requested information for EOI purposes.

Use of information gathering measures absent domestic tax interest (ToR B.1.3)

136. The Revenue Administration (Amendment) Act 2011 specifically provides in sections 33 and 34 that the powers to access information which the SRC can use for domestic purposes can also be used for carrying out obligations under a tax agreement or treaty. A tax agreement or treaty is defined in section 2 of this Act as “any agreement or treaty between the Government of the Seychelles and the Government of one or more countries for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes or exchange of information on tax matters”. This definition encompasses all DTCs, TIEAs and multilateral tools such as the Multilateral Convention signed by the Seychelles. These provisions therefore ensure that the domestic powers of the SRC to gather information can be used to answer any incoming EOI requests.

137. Similarly, the SRC Act makes sure that one of the functions of the Seychelles Revenue Commission is “to exchange information in terms of any tax agreement or treaty (s. 13(1)(h))”, tax agreement or treaty being defined with reference to the RAA.

138. Accordingly, the Phase 2 review concluded that the 2011 amendments made by the Seychelles to the SRC Act and the RAA eliminate any ambiguity that existed as to whether the domestic powers to gather information granted to the SRC could be used to answer incoming EOI request. There has been no change in this respect in the Seychelles laws or practices since the Phase 2 review.

139. In practice, the Seychelles’ experience in collecting information for EOI purposes is limited as only four requests have been received during the reviewed periods (three during the current period under review and one during the Phase 2 review period). The requested information was

successfully gathered, using the powers provided by section 34 of the RAA. The Seychelles' authorities have confirmed that there are no restrictions on the use of these powers for EOI purposes under the same conditions as for domestic purposes. The EOI manual developed by the SRC also specifies that when the statute of limitation has expired in the Seychelles, assistance may still be provided, should the treaty partner need this information for its own purposes.

Compulsory powers (ToR B.1.4)

140. Based on the outcomes of the Phase 2 review the Seychelles law provides for effective compulsory powers including monetary penalties and use of search of search and seizure which can be applied in cases where the requested information is not provided. These sanctions are contained in sections 47, 48 and 51 of the RAA. Further, sanctions under the respective acts for not keeping information required under the act apply as well. In all instances, businesses not keeping their records can be prosecuted and struck off from the register (see further section A.1.6).

141. The SRC's compulsory powers have been further strengthened since the Phase 2 review by amendment of the IBC Act allowing striking off of a company in case of its failure to respond to request for information from the SRC (s. 2(i) IBC Amendment Act, 2013). The amendment came into force on 16 December 2013 and was not yet applied in practice as the requested information was in all cases provided.

142. Search and seizure power was used once over the last three years in the domestic context. There was no case where compulsory powers needed to be used to obtain the requested information for EOI purposes as the information was provided as requested.

Secrecy provisions (ToR B.1.5)

143. The Phase 2 review concluded that secrecy provisions contained the Seychelles law do not prevent effective exchange of information. No change has been reported in the relevant legal provisions or practices since the Phase 2 review.

144. Section 34 of the RAA makes it clear that the domestic powers to collect information can be used by the SRC notwithstanding “any contractual duty of confidentiality” or “anything stated to the contrary in any other Act”. In addition, the amendment to this Act passed by the Seychelles in December 2011 clarifies that these domestic powers to access information can also be used to answer incoming requests received from treaty partners.

145. In practice, the SRC has confirmed that it can request information from registered agents, banks or any other persons irrespective of confidentiality provisions contained in other Acts. The access to information powers granted by the RAA has been tested only in a few domestic cases where information requested was covered by secrecy provisions. No issue in this respect has been encountered by the SRC or reported by peers.

Conclusion

146. For the period under review, the SRC was in a position to request information from third parties, be it ownership, accounting or banking information and to gather it for domestic and EOI purposes. Powers granted by the RAA to the SRC to collect information are therefore adequate. The Seychelles' EOI experience is nevertheless limited and although a comprehensive answer was provided in response to four EOI request received during the periods under review, it is recommended that the Seychelles continue to monitor access to information for EOI purposes to make sure that comprehensive answers are provided to partner jurisdictions in all instances.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Phase 2 rating	
Compliant	
Factors underlying Recommendations	Recommendations
The access to information powers granted by the Revenue Administration Act have only been tested in <u>four</u> one instances for EOI purposes in the <u>periods</u> under review.	It is recommended that Seychelles continue to monitor access to information for EOI purposes to make sure that it is effective in all cases.

B.2. Notification requirements and rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

Not unduly prevent or delay exchange of information (ToR B.2.1)

147. The Seychelles law does not provide for prior notification procedure to inform the taxpayer that he will be required to produce accounts and records or that a third party will be required to provide such information. All types of information can be collected by way of notice without informing first the person concerned that a request for information has been received. There is also no need to notify the person concerned once the information is transmitted to the requesting party. Further, obtaining of the requested information and providing it to the requesting jurisdiction cannot be appealed as these do not include tax assessment decision.

148. Accordingly, the Phase 2 report concluded that rights and safeguards provided by the Seychelles law and practice cannot be used to delay the provision of information to the SRC and the treaty partner. The information is usually requested from the registered agent and the respective entity (in all cases so far an IBC). The Seychelles' authorities confirmed that if requested by the requesting jurisdiction the Competent Authority will not request the information from the entity or its registered agent although this might have negative impact on obtaining the information.

149. There has been no change reported in this respect since the Phase 2 review. The conclusions of the Phase 2 report were also confirmed in practice during the period under review and no issue regarding use of rights and safeguards in the Seychelles was indicated by peers.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant

C. Exchanging information

Overview

150. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In the Seychelles, the legal authority to exchange information derives from double tax conventions, TIEAs, the Multilateral Convention and the SADCA Agreement. This section of the report examines whether the Seychelles has a network of information exchange agreements that would allow it to achieve effective exchange of information in practice.

151. The Seychelles has an extensive EOI network covering 104 jurisdictions through 33 DTCs, 11 TIEAs and two multilateral instruments. The number of Seychelles EOI partners has been more than doubled since the Phase 2 review by Seychelles becoming a signatory to the Multilateral Convention.

152. The Phase 2 report concluded that DTCs with Lesotho, Malawi and San Marino include an additional protocol which is not in line with the standard as it provides for additional requirements to justify that an incoming request is foreseeably relevant. Since the Phase 2 report the Seychelles put significant efforts to bring these treaties in line with the standard and as a result all three DTCs were amended. All eight EOI treaties signed after the Phase 2 review provide for exchange of information in line with the standard. As a result, all Seychelles' 104 EOI relations are in line with the standard. The Seychelles brings its EOI treaties into force expeditiously. Thirty-three out of 46 EOI agreements are in force. The remaining 13 treaties are awaiting completion of domestic procedures for entry into force in the partner jurisdictions.

153. Since the Phase 2 review the Seychelles signed the Multilateral Convention on 24 February 2014 and it deposited its instrument of ratification on 25 June 2015. Consequently, in accordance with article 28 of the Multilateral Convention the Convention comes into force in the Seychelles on 1 October 2015. The Multilateral Convention broadens Seychelles treaty network by 58 jurisdictions. In addition to accession to the Multilateral Convention the Seychelles signed four new DTCs and two TIEAs.

154. During the Phase 2 review three peers reported that their TIEA negotiations with the Seychelles had not successfully progressed. Two of the three peers are now parties to the Multilateral Convention and therefore the Seychelles has an EOI relation with them. The Seychelles has approached all three peers in order to conclude a TIEA and are awaiting response from the third remaining peer which is not a signatory to the Multilateral Convention.

155. Confidentiality of information and material received is ensured through general confidentiality processes in place at the SRC and other measures specifically dedicated to EOI matters.

156. All Seychelles' exchange of information mechanisms ensure that rights and safeguards of taxpayers and third parties are protected in line with the standard. Seychelles' domestic law does not allow for exception from obligation to provide information requested for tax purposes and no issues in this respect have been encountered in practice.

157. Procedures and resources allocated to EOI are adequate to handle the current volume and to face increasing volume in the future. Nevertheless, since the Seychelles' experience in EOI is limited, it is recommended that its authorities continue monitoring its processes and resources to ensure that complete answers are provided to its partners in a timely manner.

C.1. Exchange-of-information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

158. The Seychelles has an extensive EOI network that covers 104 jurisdictions through 33 DTCs, 11 TIEAs, the Multilateral Convention and the Southern African Development Community's Agreement on Assistance in Tax Matters (SADCA Agreement). Since the Phase 2 report the Seychelles has more than doubled the number of its EOI partners by becoming a signatory to the Multilateral Convention and signing of five new DTCs and two TIEAs. Out of the 46 EOI agreements 13 are not yet in force.

Foreseeably relevant standard (ToR C.1.1)

159. All Seychelles' EOI instruments provide for exchange of information that is "foreseeably relevant", "necessary" or "relevant" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered by the agreement. This scope is set out in the EOI Article in the relevant agreement and is consistent with the international standard.

160. The Phase 2 report concluded that DTCs with Lesotho, Malawi and San Marino include an additional protocol which is not in line with the standard as it provides for additional requirements to justify that an

incoming request is foreseeably relevant. The additional protocol to the DTC with Lesotho contains a provision which provides that bank records will be exchanged only if the request identifies both a specific taxpayer and a specific bank. The protocols in case of treaties with San Marino and Malawi require among other that the requesting jurisdiction has to provide:

- the identity of the person under examination or investigation and, if banking records are sought by the applicant State, the identity of the specific bank from which information is sought; and in every case a statement of all supporting evidences and other circumstantial proofs which the request is based upon;
- the name and to the extent known, address of any person which the requesting State believes to be in possession of the request information.

161. Since the Phase 2 the Seychelles has contacted all three partners to change these provisions and bring them in line with the standard. The protocols with San Marino and Malawi were brought in line with the standard and came into effect on 19 May 2015 and 12 August 2015 respectively. The new provisions of these protocols now mirror Article 5(5) of the Model TIEA. The additional protocol to the DTC with Lesotho which was identified as not being in line with the international standard was agreed to be repealed by exchange of diplomatic notes between Seychelles and Lesotho on 27 January 2014. Although by repealing the additional protocol the DTC was already brought in line with the standard the Seychelles further proposed an amendment to the DTC by way of a new protocol to make the DTC's EOI article exactly mirroring article 26 of the model DTC. The new protocol was agreed with Lesotho on 8 August 2014 and the Seychelles are ready to sign it once Lesotho finalises the process of obtaining internal approvals to sign the amending Protocol. It is also noted that the DTC with Lesotho is not yet ratified by Lesotho and therefore not in force.

162. All EOI treaties signed by the Seychelles after the Phase 2 review (i.e. DTCs with Guernsey, Ghana, Jersey, Kenya and Singapore; TIEAs with Cayman Islands and Switzerland and the Multilateral Convention) contain the model post 2005 wording and provide for exchange of foreseeably relevant information in line with the standard. The treaty with Kenya includes an annexed Mode of Application which initially mirrored wording of the protocols to DTCs with San Marino and Malawi and required additional information to be included in the EOI request not in line with the standard. The DTC with Kenya was initialed on 21 July 2011, i.e. before the Phase 2 report containing recommendation regarding protocols with San Marino and Malawi was prepared. Nevertheless it was signed after adoption of the Phase 2 report. According to the Seychelles authorities this was an administrative mistake which does not represent current Seychelles negotiation policy as reflected in all other treaties negotiated after the Phase 2 report. The

Seychelles officially contacted Kenya in June and August 2015 and the Mode of Application was amended through exchange of Competent Authorities' letters on 17 August 2015.

163. In practice, there has been no case where the Seychelles has requested clarification from the requesting jurisdiction. All three EOI requests received during the reviewed period were considered by the Seychelles as meeting the criteria of foreseeable relevance. Accordingly, no issue in this respect was raised by peers.

164. It can be concluded that all Seychelles' 104 EOI relations provide for exchange of information in line with the criteria of foreseeable relevance and no issue in respect of application of foreseeable relevance was encountered in practice either. Since the Phase 2 review the Seychelles has amended the three treaties which were found not in line with the standard and concluded eight new EOI treaties including the Multilateral Convention which are in accordance with the standard. The Mode of Application of the DTC with Kenya signed after the Phase 2 review initially contained requirement to include additional information in the EOI request however since then it has been brought in line with the standard. Nevertheless the Seychelles are recommended to monitor its EOI negotiations so that it does not enter into any new EOI treaty which does not provide for exchange of information in line with the standard.

In respect of all persons (ToR C.1.2), Obligation to exchange all types of information (ToR C.1.3), Absence of domestic tax interest (ToR C.1.4), Absence of dual criminality principles (ToR C.1.5), Exchange of information in both civil and criminal tax matters (ToR C.1.6), Provide information in specific form requested (ToR C.1.7)

165. The Phase 2 review concluded that except for restrictions identified in additional protocols in DTCs with San Marino, Malawi and Lesotho all other Seychelles' EOI agreements allow for exchange of information in line with the international standard.

166. Seychelles' EOI agreements signed since the Phase 2 review contain the model post 2005 wording and therefore provide for exchange of information in line with the standard.

167. Out of all Seychelles' EOI agreements only DTCs with Kuwait, Sri Lanka and Zambia do not contain wording akin to paragraphs 4 and 5 of the Model Article 26. Following the adoption of the Revenue Administration (Amendment) Act 2011, the Seychelles' competent authority has clear powers to access all types of information (including bank information) regardless whether the requested information is of interest for domestic tax purposes (see further section B.1). Consequently, all of the Seychelles' EOI agreements allow for exchange of information in accordance with the international

standard. Nevertheless bank secrecy or domestic tax interest restriction may exist in the domestic laws of the Seychelles' treaty partners with whom Seychelles has treaty which does not contain wording akin to paragraphs 4 and 5 of the Model Article 26 (i.e. Kuwait, Sri Lanka and Zambia). The Seychelles should therefore monitor these cases and renegotiate the treaties that do not meet the international standard in this respect.

In force (ToR C.1.8)

168. The Phase 2 report concluded that all treaties signed by the Seychelles have been swiftly ratified though entry into force has been delayed by the partner not completing its own domestic procedures in a number of instances. As tax treaties and EOI arrangements (with exception of multilateral instruments) do not have to be ratified by the parliament and can be directly gazetted, all Seychelles EOI agreements (except for the DTC with Jersey signed in July 2015) are ratified by the Seychelles including the recently signed Multilateral Convention. Nevertheless, because domestic procedures for entry into force have not been completed in the partner jurisdictions, 13 out of 46 EOI agreements are not yet in force (see further Annex 2).⁴

In effect (ToR C.1.9)

169. With the amendments made in 2011 to its RAA and the SRC Act, the Seychelles has fully given effect to its EOI mechanisms. In practice, the Seychelles were able to respond to the incoming requests received.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement. The element is in place.	
Factors underlying Recommendations	Recommendations
Three of the treaties signed by the Seychelles since 2010 contain wording inconsistent with the international standard.	The Seychelles should renegotiate the three recently signed treaties that are not consistent with the international standard.

4. These agreements are DTCs with Lesotho (September 2011), Belgium (April 2006), Kuwait (February 2008), Sri Lanka (September 2011), Zimbabwe (August 2002), Malawi (September 2012), Ghana (May 2014), Singapore (July 2014), Guernsey (January 2014) and Jersey (July 2015); TIEAs with Cayman Islands (February 2014) and Switzerland (May 2014) and the SADCA Agreement.

Phase 2 rating
Partially Compliant <u>Compliant</u>

C.2. Exchange-of-information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

170. Seychelles has extensive EOI network covering 104 jurisdictions through 33 DTCs, 11 TIEAs, the Multilateral Convention and the Southern African Development Community's Agreement on Assistance in Tax Matters (SADCA Agreement). This represents significant increase in number of Seychelles EOI partners since the Phase 2 review where the Seychelles had network covering 40 partners.

171. Since the Phase 2 review the Seychelles signed the Multilateral Convention on 24 February 2014 and deposited its instrument of ratification on 25 June 2015. The Multilateral Convention broadens Seychelles treaty network by 58 jurisdictions. In addition the Seychelles signed five new DTCs and two TIEAs.

172. During the Phase 2 review three peers reported that their TIEA negotiations with the Seychelles had not successfully progressed. Two of the three peers are now parties to the Multilateral Convention and therefore the Seychelles has an EOI relation with them. Further, the Seychelles has approached all three peers in order to conclude a TIEA. In one case TIEA negotiations have been suspended by mutual agreement as both jurisdictions are signatories of the Multilateral Convention. Negotiations with other peer who is also a party to the Multilateral Convention were concluded and a TIEA was initialled on 9 June 2015. The negotiations were focused on inclusion of a recovery assistance provision which was proposed by the peer. The TIEA is now being prepared for signing.

173. The Seychelles approached the third peer who is not a signatory to the Multilateral Convention to negotiate a model TIEA on 28 October 2014 and on 16 July 2015 and is currently awaiting comments on the proposed draft from the peer. According to the Seychelles authorities the last message from the peer was received on 25 February 2015 confirming receipt of the draft. The Seychelles expressed its readiness to proceed with the negotiation, nevertheless, as the last message from the peer was received considerable time ago the process could be accelerated to further proceed with the negotiations (e.g. through email communications or personal contacts).

174. During the supplementary review peer input on the Seychelles willingness to enter into EOI agreements regardless of their form was sought and no jurisdiction has indicated that the Seychelles had refused to enter into or delayed negotiations of an EOI agreement.

175. In addition to already signed agreements the Seychelles advised that it initialled EOI agreements with another 13 jurisdictions and it is negotiating TIEAs with another 12 jurisdictions.⁵

176. To sum up, the Seychelles has become a signatory to the Multilateral Convention and has more than doubled its EOI network in comparison to the Phase 2 review. Further, no peer indicated that the Seychelles has not sufficiently progressed with an EOI agreement negotiation. The Seychelles treaty network therefore appears to cover all its relevant partners.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place but certain aspects of the legal implementation of the element need improvement. The element is in place.	
Factors underlying Recommendations	Recommendations
The Seychelles has been approached by three jurisdictions to negotiate a TIEA and has not successfully progressed those negotiations.	The Seychelles should enter into agreements for exchange of information (regardless of their form) with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement with it. <u>The Seychelles should continue to develop its exchange of information network with all relevant partners.</u>
Phase 2 rating	
Partially Compliant <u>Compliant</u>	

5. Jurisdictions with which the Seychelles initialled a DTC are Armenia, Cameroon, Egypt, Guinea, Morocco, Mozambique, Namibia, Pakistan, Portugal, Russia and Tunisia. Jurisdictions with which the Seychelles initialled a TIEA are Georgia and India. Jurisdiction with which TIEA negotiations are in progress are Burkina Faso, Cook Islands, Czech Republic, Chile, Ireland, Korea, Philippines, Poland, Spain, Slovak Republic, Turks and Caicos and Ukraine.

C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

Information received: disclosure, use, and safeguards (ToR C.3.1)

177. The Phase 2 review concluded that the Seychelles' legal and regulatory framework and its practices are compliant with the confidentiality aspects of the international standard.

178. Treaties signed by the Seychelles contain provisions aimed at keeping confidential all information received from a treaty partner. Moreover, they specify that this information cannot be used for other purposes than those expressly mentioned in the incoming request. Further, Seychelles domestic law contains provisions protecting confidentiality of exchanged information in line with the standard. Confidentiality obligations are also supported by effective enforcement provisions and practices. Notices to the information holder do not include information which goes beyond description of the requested information and reference to the legal basis of the notice (i.e. to section 34 or 33 of the RAA). The taxpayer subject to the request or the information holder are not allowed to inspect the EOI request letter or provided documents.

179. Since the Phase 2 review the Seychelles has signed eight EOI agreements which all contain confidentiality provision akin to Article 26(2) of the OECD Model DTC and has made an amendment to the SRC Act in order to accede to the Multilateral Convention. The amendment to section 11 of the SRC Act states that no information obtained pursuant to any tax agreement or treaty shall be disclosed to any person or authority except for the purposes authorised under the agreement or treaty. The amendment ensures that confidentiality provisions of any EOI agreement including the Multilateral Convention will prevail over the domestic law.

180. Accordingly, there has been no case reported by peers or by the Seychelles authorities where exchanged information was unduly disclosed or made public.

All other information exchanged (ToR C.3.2)

181. The rights and safeguards described in the previous section apply equally to information provided in a request, information transmitted in response to a request and any background documents to such requests.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant

C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

Exceptions to requirement to provide information (ToR C.4.1)

182. The Phase 2 review of Seychelles' legal framework and practices concerning rights and safeguards of taxpayers and third parties are in line with the standard. There has been no change in this area reported since then. Each of the Seychelles' exchange of information mechanisms including eight EOI agreements signed since the Phase 2 review ensure that the parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information which is the subject of attorney client privilege or information the disclosure of which would be contrary to public policy. Domestic secrecy provisions do not apply in respect of exercise of SRC access powers granted for EOI purposes under the RAA (see further section B.1.5).

183. No issues in relation to the rights and safeguards of taxpayers and third parties have been encountered in practice, nor have they been raised by any of the Seychelles' exchange of information partners.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant

C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

Responses within 90 days (ToR C.5.1)

184. At the time of the Phase 2 review the Seychelles received one EOI request which was responded within five months. The Phase 2 report concluded that as EOI is very recent for the Seychelles, its competent authority should continue to monitor its timelines to make sure that proper answers can be provided to all treaty partners in a timely manner.

185. Since the Phase 2 review the Seychelles has received another three EOI requests during the period under review. All three requests related to IBCs. In all cases the requested information was provided within 90 days. Ownership information was requested in all cases, accounting as well as banking information was requested in one case.

186. The Seychelles has not declined any EOI request and no EOI request received during the reviewed period is currently pending.

187. Peer inputs confirmed that the requested information was provided in full and in a timely manner.

188. Considering limited number of EOI requests received by the Seychelles it is recommended that the Seychelles continue to monitor timeliness of its responses to ensure that the requested information can be provided to all treaty partners in a timely manner.

Organisational process and resources (ToR C.5.2)

189. The competent authority for the exchange of information in the Seychelles is the Minister of Finance, Trade and Investment. The Minister designated the Revenue Commissioner to act on his behalf as the competent authority. Consequently all requests for exchange of information are administratively dealt with by the SRC.

190. Since the Phase 2 review the Seychelles established an ad hoc EOI unit. The unit comprises four persons: the Director of the SRC Legal Advice, the Assistant Commissioner for Domestic Tax, the Manager of Legal Advice and the Director for Compliance Programme and Policy. These persons have attended several Global Forum seminars and meetings and actively participate in the Global Forum activities. In addition presentations have been run internally to have new SRC personnel potentially dealing with EOI requests up to date with the processes. An EOI manual detailing the different steps to

respond to an incoming request has also been disseminated within the Tax Division of the SRC.

191. There has been no significant change since the Phase 2 review in the process of handling EOI requests. When an incoming request is received by the Revenue Commissioner, it is passed on to the Director of the Legal Advice who will acknowledge receipt of the request and then allocate the request to a member of the EOI Unit. The member of the EOI Unit will register the request to the EOI database and review it. The EOI database automatically generates reminders sent to the Director of the Legal Advice and regular updates to the requesting party. In cases where the legal basis is missing, the SRC cannot process the request and would not request additional information. In such case the SRC will inform the requesting party of reasons why the request is declined. All requests received in English or French can be processed. If the requested information is already at hands of the SRC the request is sent to the Assistant Commissioner for Domestic Tax to obtain the information. The Domestic Tax Division will then be in charge of collecting the information under the conditions previously described in section B.1 of this report. If the information is not held by the SRC, a notice requesting the information will be sent out, under the signature of the Revenue Commissioner by the member of the EOI Unit handling the request (i.e. by the Director of the Legal Advice, the Manager of Legal Advice or the Director for Compliance Programme and Policy). Once the information has been collected and received, it is checked to ensure its accuracy, all documents are stamped and then sent to the treaty partner by the Director of the Legal Advice with a signature of the Revenue Commissioner.

192. In order to verify the identity and contact details of the registered agent the SRC contacts the FSA. The FSA is required to respond within seven days. Once the information holder is verified the SRC sends notices to the registered agent and the entity to provide the requested information. If banking information is requested the notice is sent to the bank. The deadline for providing the requested information is 14 days with a possibility to request for an extension should the Revenue Commissioner be satisfied with the reasons for such an extension. However no request for extension will be considered if it is received after four days from the date when the notice to provide the information was issued. In case no response is received within the deadline the SRC will send the information holder a notice of intent to prosecute which grants additional seven days to provide the information. Consequently if no extension has been granted the requested information has to be provided within 21 days after which the SRC will start to apply enforcement measures (see further section B.1.4). In all three cases during the period under review the requested information was provided by the IBC's registered agent upon SRC's notice within the prescribed deadline.

Conclusion

193. The Seychelles processes and resources appear adequate to handle volume of requests currently expected to be handled. It is nevertheless noted that the Seychelles experience in handling incoming request is limited and that the Seychelles recently became a signatory to the Multilateral Convention which may lead to significant increase in number of incoming requests after the Multilateral Convention comes into force especially considering Seychelles position as a financial centre. It is therefore recommended that the Seychelles continue to monitor its processes and resources in particular taking into account of any significant changes to the volume of incoming EOI requests, to ensure that both the processes and level of resources are adequate for effective EOI in practice.

Absence of unreasonable, disproportionate, or unduly restrictive conditions on exchange of information (ToR C.5.3)

194. Other than those matters identified earlier in this report, there are no further conditions that appear to restrict effective exchange of information in the Seychelles. There is also no evidence of unreasonable, disproportionate, or unduly restrictive conditions on exchange of information in practice.

Determination and factors underlying recommendations

Phase 1 Determination	
This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.	
Phase 2 rating	
Largely Compliant	
Factors underlying Recommendations	Recommendations
The Seychelles has committed resources and has in place organisational processes for exchange of information that appear to be adequate for dealing with incoming EOI requests. For the periods under review, the Seychelles received only <u>four</u> one requests for information. Consequently, the organisational processes have not been sufficiently tested in practice.	The Seychelles should continue to monitor the organisational processes of the competent authority, as well as the level of resources committed to EOI, taking into account any significant changes in the volume of requests, to ensure that both the processes and level of resources are adequate for effective EOI in practice.

Summary of determinations and factors underlying recommendations

Overall Rating		
LARGELY COMPLIANT		
Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. (<i>ToR A.1</i>)		
Phase 1 determination: The element is in place.		
Phase 2 rating: Largely Compliant	Measures to improve availability of ownership information in the Seychelles were introduced only recently and need to be consistently applied also in the future. These measures include in particular (i) strengthened supervisory and enforcement activity by the FSA, (ii) prohibition of bearer shares, (iii) IBCs' requirement to submit declaration of compliance with its ownership obligations under the Seychelles law and (iv) CSPs' obligation to report compliance of their clients with record keeping obligations to the FSA.	The Seychelles should monitor practical implementation of the recently introduced measures to ensure that ownership information in respect of IBCs is available in all cases.

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. <i>(ToR A.2)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Largely Compliant	Measures taken by the Seychelles to improve availability of accounting information were introduced only recently and need to be consistently applied also in the future. These measures particularly concern supervision and enforcement of obligation to maintain accounting information in accordance with the Seychelles law in cases where this information is kept outside of the Seychelles.	The Seychelles should monitor practical implementation of the recently introduced measures to ensure that accounting information in respect of relevant entities is available in all cases.
Banking information should be available for all account holders. <i>(ToR A.3)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). <i>(ToR B.1)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant	The access to information powers granted by the Revenue Administration Act have only been tested in four instances for EOI purposes in the periods under review.	It is recommended that Seychelles continue to monitor access to information for EOI purposes to make sure that it is effective in all cases.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. <i>(ToR B.2)</i>		
Phase 1 determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
Phase 2 rating: Compliant		
Information exchange mechanisms should provide for effective exchange of information. <i>(ToR C.1)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. <i>(ToR C.2)</i>		
Phase 1 determination: The element is in place.		The Seychelles should continue to develop its EOI network with all relevant partners.
Phase 2 rating: Compliant		
The information exchange mechanisms of jurisdictions should have adequate provisions to ensure the confidentiality of information received. <i>(ToR C.3)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant		
Information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties. <i>(ToR C.4)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant		
The jurisdiction should provide information under its network of agreements in a timely manner. <i>(ToR C.5)</i>		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

Determination	Factors underlying recommendations	Recommendations
<p>Phase 2 rating: Largely Compliant</p>	<p>The Seychelles has committed resources and has in place organisational processes for exchange of information that appear to be adequate for dealing with incoming EOI requests. For the periods under review, the Seychelles received only four requests for information. Consequently, the organisational processes have not been sufficiently tested in practice.</p>	<p>The Seychelles should continue to monitor the organisational processes of the competent authority, as well as the level of resources committed to EOI, taking into account any significant changes in the volume of requests, to ensure that both the processes and level of resources are adequate for effective EOI in practice.</p>

Annex 1: Jurisdiction’s response to the review report⁶

The Seychelles would like to express its high appreciation for the work done by the assessment team, the Global Forum Secretariat and the Peer Review Group during the supplementary Phase II Review. The Seychelles welcomes the Report as approved during the Peer Review Group meeting held from 21 to 24 September 2015 in Paris, France.

The Seychelles supports the work of the Global Forum on Transparency and Exchange of Information and is determined to pursue its efforts to ensure tax transparency. As a consequence of the recommendations made, Seychelles actively took set of measures to address the obstacles to an effective exchange of information as highlighted in the Phase II report. These measures are analysed in the present Phase II Supplementary report.

From a legal perspective, the major changes were the abolishment of bearer shares, the requirement for all share registers to be kept at the company’s registered office in Seychelles so as to enhance the effectiveness and efficiency of the Financial Services Authority’s monitoring process and the obligation for IBCs to submit an Annual Return, in the form of a declaration that the IBC is keeping accounting records in accordance with the IBC Act which can be made available through its registered agent and that the Share Register located at the registered office is complete and updated. Seychelles also reviewed its set of penalties in increasing the penalty fee in instances of non-compliance with the Share Register and accounting record keeping requirement and in providing for additional grounds for striking-off, particularly in case of failure to comply with a request for information from the Seychelles Revenue Commission and failure to pay penalty fees imposed by the FSA.

From a practical aspect, large efforts were made to ensure the availability of ownership and accounting information and Seychelles introduced new obligations on CSPs to monitor compliance by IBCs, Limited Partnerships and foundations with ownership and accounting record-keeping requirements

6. This Annex presents the Jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

and to inform the FSA of any continued non-compliance by the specified entity or foundation.

Finally, there have been major developments regarding the Seychelles network of exchange of information as Seychelles became a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters on the 24th February 2015 providing Seychelles with an extensive EOI network covering 104 jurisdictions.

To conclude, Seychelles will continue to take all necessary monitoring and supervisory steps and ensure that it pursues all its efforts in maintaining and improving its exchange of information framework.

Annex 2: List of Seychelles’ exchange-of-information mechanisms

The table below summarises Seychelles’ EOI relations with individual jurisdictions established through international agreements as at August 2015. These relations allow for exchange of information upon request in the field of direct taxes. In case of the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) the date when the agreement entered into force indicates date when the Convention becomes effective between the Seychelles and the respective jurisdiction.

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Albania	Multilateral Convention	Signed	01-Oct-2015
2	Andorra	Multilateral Convention	Signed	Not yet in force in Andorra
3	Anguilla ^a	Multilateral Convention	Extended	01-Oct-2015
4	Argentina	Multilateral Convention	Signed	01-Oct-2015
5	Aruba ^b	Multilateral Convention	Extended	01-Oct-2015
6	Australia	Multilateral Convention	Signed	01-Oct-2015
7	Austria	Multilateral Convention	Signed	01-Oct-2015
8	Azerbaijan	Multilateral Convention	Signed	01-Oct-2015
9	Bahrain	Double Tax Convention (DTC)	24-Apr-2010	03-Feb-2012
10	Barbados	DTC	19-Oct-2007	28-Feb-2008
11	Belgium	DTC	27-Apr-2006	
		Multilateral Convention	Signed	01-Oct-2015
12	Belize	Multilateral Convention	Signed	01-Oct-2015
13	Bermuda ^a	DTC	24-May-2012	19-July2013
		Multilateral Convention	Extended	01-Oct-2015
14	Botswana	DTC	26-Aug-2004	22-Jun-2005

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
15	Brazil	Multilateral Convention	Signed	Not yet in force in Brazil
16	British Virgin Islands ^a	Multilateral Convention	Extended	01-Oct-2015
17	Cameroon	Multilateral Convention	Signed	01_Oct-2015
18	Canada	Multilateral Convention	Signed	01-Oct-2015
19	Cayman Islands ^a	Tax Information Exchange Agreement (TIEA)	12-Feb-2014	
		Multilateral Convention	Extended	01-Oct-2015
20	Chile	Multilateral Convention	Signed	Not yet in force in Chile
21	China	DTC	26-Aug-1999	17-Jan-2000
		Multilateral Convention	27-Aug-2013	No yet in force in China
22	Colombia	Multilateral Convention	Signed	01-Oct-2015
23	Costa Rica	Multilateral Convention	Signed	01-Oct-2015
24	Croatia	Multilateral Convention	Signed	01-Oct-2015
25	Curacao ^b	Multilateral Convention	Extended	01-Oct-2015
26	Cyprus ^c	DTC	28-Jun-2006	02-Nov-2006
		Multilateral Convention	Signed	01-Oct-2015
27	Denmark	TIEA	30-Mar-2011	14-May-2012
		Multilateral Convention	Signed	01-Oct-2015
28	Democratic Republic of Congo	Southern African Development Community's Agreement on Assistance in Tax Matters (SADCA)	12-Aug-2012	
29	El Salvador	Multilateral Convention	Signed	Not yet in force in El Salvador
30	Estonia	Multilateral Convention	Signed	01-Oct-2015
31	Ethiopia	DTC	14-Jul-2012	01-Jan-2014
32	Faroe Islands ^d	TIEA	30-Mar-2011	14-May-2012
		Multilateral Convention	Extended	01-Oct-2015
33	Finland	TIEA	30-Mar-2011	08-Nov-2012
		Multilateral Convention	Signed	01-Oct-2015
34	France	Multilateral Convention	Signed	01-Oct-2015

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
35	Gabon	Multilateral Convention	Signed	Not yet in force in Gabon
36	Georgia	Multilateral Convention	Signed	01-Oct-2015
37	Germany	Multilateral Convention	Signed	Not yet in force in Germany
38	Ghana	DTC	20-May-2014	
		Multilateral Convention	Signed	01-Oct-2015
39	Greece	Multilateral Convention	Signed	01-Oct-2015
40	Greenland ^d	TIEA	30-Mar-2011	14-May-2012
		Multilateral Convention	Extended	01-Oct-2015
41	Guatemala	Multilateral Convention	Signed	Not yet in force in Guatemala
42	Guernsey ^a	TIEA	30-Mar-2011	22-Jul-2012
		DTC	27-Jan-2014	
		Multilateral Convention	Extended	01-Oct-2015
43	Hungary	Multilateral Convention	Signed	01-Oct-2015
44	Iceland	TIEA	30-Mar-2011	14-May-2012
		Multilateral Convention	Signed	01-Oct-2015
45	India	Multilateral Convention	Signed	01-Oct-2015
46	Indonesia	DTC	27-Sep-1999	16-May-2000
		Multilateral Convention	Signed	01-Oct-2015
47	Ireland	Multilateral Convention	Signed	01-Oct-2015
48	Isle of Man ^a	DTC	28-Mar-2013	16-Dec-2013
		Multilateral Convention	Extended	01-Oct-2015
49	Italy	Multilateral Convention	Signed	01-Oct-2015
50	Japan	Multilateral Convention	Signed	01-Oct-2015
51	Jersey ^a	DTC	28 Jul-2015	
		Multilateral Convention	Extended	01-Oct-2015
52	Kazakhstan	Multilateral Convention	Signed	01-Oct-2015
53	Kenya	DTC	17-Mar-2014	09-Apr-2015
54	Korea	Multilateral Convention	Signed	01-Oct-2015
55	Kuwait	DTC	05-Feb-2008	
56	Lesotho	DTC	05-Sep-2011	

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
57	Liechtenstein	Multilateral Convention	Signed	Not yet in force in Liechtenstein
58	Lithuania	Multilateral Convention	Signed	01-Oct-2015
59	Luxembourg	DTC	06-Jun-2012	19-Aug-2013
		Multilateral Convention	Signed	01-Oct-2015
60	Malawi	DTC	06-Sep-2012	
61	Malaysia	DTC DTC Protocol	03-Dec-2003 22-Dec-2009	10-Jul-2006
62	Malta	Multilateral Convention	Signed	01-Oct-2015
63	Mauritius	DTC DTC Protocol	11-Mar-2005 03-Mar-2011	22-Jun-2005
		Multilateral Convention	Signed	Not yet in force in Mauritius
64	Mexico	Multilateral Convention	Signed	01-Oct-2015
65	Moldova, Republic of	Multilateral Convention	Signed	01-Oct-2015
66	Monaco	DTC	04-Jan-2010	01-Jan-2013
		Multilateral Convention	Signed	Not yet in force in Monaco
67	Montserrat ^a	Multilateral Convention	Extended	01-Oct-2015
68	Morocco	Multilateral Convention	Signed	Not yet in force in Morocco
69	Mozambique	SADCA	12-Aug-2012	
70	Netherlands	TIEA	04-Aug-2010	01-Sep-2012
		Multilateral Convention	Signed	01-Oct-2015
71	New Zealand	Multilateral Convention	Signed	01-Oct-2015
72	Nigeria	Multilateral Convention	Signed	01-Oct-2015
73	Norway	TIEA	30-Mar-2011	14-May-2012
		Multilateral Convention	Signed	01-Oct-2015
74	Oman	DTC	13-Sep-2003	20-Jan-2004
75	Poland	Multilateral Convention	Signed	01-Oct-2015
76	Portugal	Multilateral Convention	Signed	01-Oct-2015
77	Philippines	Multilateral Convention	Signed	Not yet in force in Philippines
78	Qatar	DTC	01-Jul-2006	10-Apr-2007

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
79	Romania	Multilateral Convention	Signed	01-Oct-2015
80	Russian Federation	Multilateral Convention	Signed	01-Oct-2015
81	San Marino	DTC DTC Protocol	28-Sep-2012 24-Oct-2014	30-May-2013 19-May-2015
		Multilateral Convention	Signed	Not yet in force in San Marino
82	Saudi Arabia	Multilateral Convention	Signed	Not yet in force in Saudi Arabia
83	Singapore	DTC	09-Jul-2014	
		Multilateral Convention	Signed	Not yet in force in Singapore
84	Sint Maarten ^b	Multilateral Convention	Extended	01-Oct-2015
85	Slovakia	Multilateral Convention	Signed	01-Oct-2015
86	Slovenia	Multilateral Convention	Signed	01-Oct-2015
87	South Africa	DTC DTC Protocol	26-Aug-1998 05-Apr-2011	03-Jul-2002 15-May-2012
		Multilateral Convention	Signed	01-Oct-2015
88	Spain	Multilateral Convention	Signed	01-Oct-2015
89	Sri Lanka	DTC	23-Sep-2011	
90	Swaziland	DTC	18-Oct-2012	11-Feb-2015
91	Sweden	TIEA	30-Mar-2011	16-Oct-2013
		Multilateral Convention	Signed	01-Oct-2015
92	Switzerland	TIEA	26-May-2014	
		Multilateral Convention	Signed	Not yet in force in Switzerland
93	Tanzania	SADCA	12-Aug-2012	
94	Thailand	DTC	26-Apr-2001	14-Apr-2006
95	Tunisia	Multilateral Convention	Signed	01-Oct-2015
96	Turkey	Multilateral Convention	Signed	Not yet in force in Turkey
97	Turks & Caicos ^a	Multilateral Convention	Extended	01-Oct-2015
98	Ukraine	Multilateral Convention	Signed	01-Oct-2015
99	United Arab Emirates	DTC	18-Sep-2006	23-Apr-2007
100	United Kingdom	Multilateral Convention	Signed	01-Oct-2015

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
101	United States	Multilateral Convention	Signed	(amended convention not yet in force in USA)
102	Viet Nam	DTC	04-Oct-2005	07-Jul-2006
103	Zambia	DTC	07-Dec-2010	04-Jun-2012
104	Zimbabwe	DTC	06-Aug-2002	

Notes: a. Extension by United Kingdom.

b. Extension by the Netherlands.

c. Note by Turkey: The information in this document with reference to « Cyprus » relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

d. Extension by Denmark.

Annex 3: List of all laws, regulations and other material received

Constitution of Republic of the Seychelles, 1993

Tax system

Income and non monetary benefits tax Bill, 2010

Revenue Administration Act, 2009

Revenue Administration (Amendment) Act, 2011

Seychelles Revenue Commission Act, 2009

Seychelles Revenue Commission (Amendment) Act, 2011

Seychelles Revenue Commission (Amendment) Act, 2014

Business Tax Act, 2009

Excise Tax Act, 2009

Social Security (contributions) (Amendment) Regulations, 2007

Goods and Service Tax Regulation, 2003

Business Tax Regulations, 2015

Laws governing companies

Commercial Code Act, 1976

Companies ordinance, 1972

Companies Ordinance (Amendment) Act, 2011

Registration of Association Act, 1959

Registration of Business Names Act, 1991

Laws governing the offshore sector

International Corporate Service Providers Act, 2003
International Corporate Services Providers (amendment) Act, 2009
International Corporate Services Providers (Amendment) Act, 2011
International Corporate Services Providers (Amendment of Schedule) Regulation, 2014
International Business Companies Act, 1994
International Business Companies (amendment) Act, 1995
International Business Companies (amendment) Act, 1997
International Business Companies (amendment) Act, 2000
International Business Companies (amendment) Act, 2009
International Business Companies (Amendment) Act, 2011
International Business Companies (Amendment) Act, 2013
IBC (Amendment of Schedule) Regulations, 1996
IBC (Amendment of Schedule) Regulations, 2005
IBC (Amendment of Schedule) Regulations, 2007
Limited Partnerships Act, 2003
Limited Partnerships (Amendment) Act, 2011
International Trusts Act, 1994
International Trusts (Amendment) Act, 2011
Companies (Special License) Act, 2003
Protected Cell Companies Act, 2003
Protected Cell Companies (Amendment) Act, 2004
Foundations Act, 2009
Foundations (Amendment) Act, 2011

Financial sector

Financial Services Authority Act, 2013
Financial Services Authority (Appeals Board) Regulations, 2014

Financial Institutions Act, 2004

Financial Institutions (Amendment) Act, 2011

Insurance Act, 2009

Anti-money laundering legislation

Anti-money laundering Act, 2006

Anti-money laundering (amendment) Act, 2008

Anti Money Laundering (Amendment) Act, 2011

Administrative documentation

AML&CFT Procedures Guidelines, 2007

Application Form for CSL

IBC Guidelines

Business Activity Statement

CSL Application Guidelines

“Due diligence” and “know your customer” declaration for CSL application

Guidance note for ICSP

Code for ICSP

For more information
**Global Forum on Transparency and
Exchange of Information for Tax Purposes**
www.oecd.org/tax/transparency
www.eoi-tax.org
Email: gftaxcooperation@oecd.org