

GLOBAL FORUM ON
**TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES**



Peer Review Report on the Exchange of Information
on Request

SEYCHELLES

2020 (Second Round)

Global Forum on Transparency and Exchange of Information for Tax Purposes: Seychelles 2020 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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Table of contents

Reader’s guide	5
Abbreviations and acronyms	9
Executive summary	11
Overview of the Seychelles	21
Part A: Availability of information	25
A.1. Legal and beneficial ownership and identity information	25
A.2. Accounting records	58
A.3. Banking information	65
Part B: Access to information	71
B.1. Competent authority’s ability to obtain and provide information	71
B.2. Notification requirements, rights and safeguards	76
Part C: Exchanging information	79
C.1. Exchange of information mechanisms	79
C.2. Exchange of information mechanisms with all relevant partners	83
C.3. Confidentiality	84
C.4. Rights and safeguards of taxpayers and third parties	85
C.5. Requesting and providing information in an effective manner	86
Annex 1: List of in-text recommendations	93
Annex 2: List of the Seychelles’ EOI mechanisms	94
Annex 3: Methodology for the review	98
Annex 4: The Seychelles’ response to the review report	100

Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. 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 reports, please refer to www.oecd.org/tax/transparency and <http://dx.doi.org/10.1787/2219469x>.

Abbreviations and acronyms

2016 ToR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
AML	Anti-Money Laundering
AML Act	Anti-Money Laundering Act of 2006
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BTA	Business Tax Act
CA	Companies Act
CBS	Central Bank of Seychelles
CDD	Customer Due Diligence
CO	Companies Ordinance
CSL	Company Special Licensee
CSP	Corporate Service Provider
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IBC	International Business Company
IBCA or IBC Act	International Business Company Act, 2016

ITA	International Trust Act, 1994
ITCSP	International corporate and trust service provider
LPA	Limited Partnership Act
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PCC	Protected Cell Company
RAA	Revenue Administration Act
ROC	Registrar of Companies
SADCA	Southern African Development Community’s Agreement on Assistance in Tax Matters
SRC	Seychelles Revenue Commission
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in the Seychelles on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 3 January 2020 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 July 2015 to 30 June 2018. This report concludes that the Seychelles is rated overall **Partially Compliant** with the international standard. In 2015, the Global Forum evaluated the Seychelles against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The report of that evaluation (the 2015 Report) concluded that the Seychelles was rated Largely Compliant overall (see Annex 3).

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Supplementary Report (2015)	Second Round EOIR Report (2020)
A.1 Availability of ownership and identity information	LC	PC
A.2 Availability of accounting information	LC	NC
A.3 Availability of banking information	C	LC
B.1 Access to information	C	PC
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	C	LC
C.2 Network of EOIR Mechanisms	C	C
C.3 Confidentiality	C	C
C.4 Rights and safeguards	C	C
C.5 Quality and timeliness of responses	LC	PC
OVERALL RATING	LC	PC

C = Compliant; LC = Largely Compliant; PC = Partially Compliant; NC = Non-Compliant

Progress made since previous review

2. The 2015 Report noted that the Seychelles had considerably strengthened its legislation and practice to address issues identified in its previous review. The Seychelles had broadened oversight and sanctions supporting the availability of ownership and accounting obligations in the offshore sector, as well as the provision of information to the competent authority. Bearer shares had also been prohibited. As the Seychelles had introduced those measures recently at the time, it was recommended to monitor their practical implementation.

3. While some supervision and enforcement activities have taken place since the 2015 Report, concerns remain regarding their overall effectiveness. Currently, 61% of the 207 066 international business companies (IBCs) are struck off and ownership and accounting information in relation to them have generally not been available. In the Seychelles, struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with filing or other information keeping requirements in order to be restored.

4. In relation to accounting records, the supervisory activity over the review period has focused only on the requirement imposed on international business companies to notify the registered agent of the location of the records without checks on whether the accounting records and underlying documentation met the requirements of the standard. No supervision was conducted in relation to other international entities and arrangements. In the vast majority of instances where accounting records have been sought for EOI, they were not available or accessible to the Seychelles' authorities.

5. In addition, the present review identifies other issues concerning the implementation of the standard, including on the new aspects of the standard introduced in 2016, such as the availability of information on the beneficial owners of relevant entities and arrangements.

Key recommendation(s)

6. The main issue identified in the present report concerns the availability of accounting information for companies operating in the offshore sector. Accounting information has not been provided in response to 88% of the cases where it has been requested by Seychelles exchange of information partners, mainly because it was not available in the Seychelles. During the review period, the high level of non-compliance, even with the basic requirement for international business companies to notify the location of the accounting records, the ineffectiveness of sanctions imposed to support compliance and the lack of supervision concerning whether the actual accounting records meet the international standard put into question the availability of this type of information in practice. Moreover, there are no clear legal

requirements for the availability of accounting information applicable when international business companies cease to exist.

7. The standard has been strengthened in 2016 to require the availability of information on the beneficial owners of legal entities and arrangements. In the Seychelles, beneficial ownership requirements are mainly contained in the anti-money laundering legislation and the International Business Companies Act of 2016 and the latter requires that IBCs keep a register of their beneficial owners in their registered offices in the Seychelles. However, the definitions of beneficial owners in the Seychelles legislation are not fully in line with the standard. Supervision and enforcement activities to support the availability of accurate and current beneficial ownership information also need improvement. The same holds true in relation to the supervision and enforcement of the availability of identity information on the relevant parts to International Trusts and Foundations.

8. The Seychelles' ability to exchange information has also been negatively impacted by some difficulties in accessing the information sought by its EOI partners. In many instances, notices to produce information have not been sent to the persons legally required to have it. In instances where information has not been provided, the competent authority has not pursued the application of all available sanctions. The Seychelles should ensure that access powers are used effectively as well as that sanctions are applied and are effective to compel the production of the requested information.

9. During the review period, the Seychelles has been able to provide a full response in less than 25% of the cases and in the remaining cases, the Seychelles has been able to provide partial responses. Status updates have generally not been given. Despite all the difficulties identified, the Seychelles competent authority was considered by peers as accessible and willing to assist. The Seychelles should ensure that exchange of information requests are answered in an effective way.

Overall rating

10. The Seychelles has achieved a rating of Compliant for four elements (B.2, C.2, C.3, C.4), Largely Compliant for two elements (A.3 and C.1), Partially Compliant for three elements (A.1, B.1 and C.5) and Non-Compliant for one element (A.2). The Seychelles' overall rating is Partially Compliant based on a global consideration of its compliance with the individual elements.

11. This report was approved at the Peer Review Group of the Global Forum in February 2020 and was adopted by the Global Forum on 27 March 2020. A follow-up report on the steps undertaken by the Seychelles to address the recommendations made in this report should be provided to the Peer

Review Group no later than 30 June 2021 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework is in place but needs improvement	The definitions of beneficial owner under AML law applicable to legal entities and legal arrangements do not fully meet the standard. For legal entities, the definition does not capture control other than through an ownership interest. For legal arrangements, the definition does not provide for the identification of individuals entitled to less than 25% of a legal arrangement's property or capital. Moreover, the AML law and the IBC Act do not provide for the identification of senior management as a backstop option when other beneficial owners cannot be identified. In addition, beneficial ownership information may not be available in respect of general and foreign partnerships if they do not engage an AML-obliged person in the Seychelles on an on-going basis.	The Seychelles should ensure that the definitions and methods of identification of beneficial owners of legal entities and arrangements are in line with the international standard and beneficial ownership information is available for all general and foreign partnerships.
EOIR Rating: Partially Compliant	During the review period, the Seychelles applied the striking off procedure as an enforcement measure against International Business Companies that failed to comply with their statutory obligations; however the effectiveness of this measure in the Seychelles is uncertain. 61% of the 207 066 International Business Companies are currently struck off. Struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with information keeping requirements in order to be restored. This situation is also of relevance in relation to the companies that had issued bearer shares (which are currently null and void by the operation of law). Availability of ownership information of IBCs is also supported by AML obligations imposed on registered agents, but those have not been subjected to enforcement measures during the review period.	The Seychelles should ensure that enforcement measures are effective to support the availability of ownership information to the standard in practice.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
EOIR Rating: Partially Compliant <i>(continued)</i>	Whilst the Financial Services Authority performed some monitoring of availability of identity and ownership information for International Trusts and Foundations, neither follow-up measures nor sanctions were applied in the instances of non-compliance identified.	The Seychelles should effectively monitor and enforce the obligation to keep identity information for International Trusts and Foundations.
	Requirements to identify, keep and verify beneficial ownership information have not been properly supervised and enforced by the relevant authorities during the review period. The supervisors seem to be satisfied with either the existence of a register of beneficial owners or the identification of a natural person pursuant to AML obligations without investigating the accurateness of the information kept in all cases. Financial sanctions upon conviction have not been applied in instances of non-compliance.	The Seychelles should further strengthen its system of supervision to ensure the accurateness of beneficial ownership information collected and apply effective, proportionate and dissuasive sanctions to ensure the availability of beneficial ownership information in line with the standard.
	Beneficial ownership information has not been provided in response to 62% of the EOI requests for this type of information. In most cases that was because the information holder (registered agent) had left the Seychelles and those circumstances also affected the response to six requests for legal ownership information. Although there are mechanisms in place to ensure the availability of information when a registered agent leaves the jurisdiction or otherwise ceases carrying on business, these have not been applied in an effective way in that case. In other cases, beneficial ownership information was not provided due to access issues.	The Seychelles should put in place a robust monitoring and enforcement system to ensure that legal and beneficial ownership information of entities remains available when their registered agents cease to exist or otherwise leave the jurisdiction.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
The legal and regulatory framework is in place but needs improvement	Although the law requires IBCs to keep accounting records and underlying documentation for seven years, it is not clear who would be legally responsible to keep such records if the company itself ceases to exist and to which persons the available sanctions could apply.	The Seychelles should ensure that accounting records and underlying documentation are maintained for a minimum period of five years in cases where an IBC ceases to exist and that the requirements are supported by effective enforcement provisions.
EOIR Rating: Non-Compliant	The supervisory activity over IBCs during the review period has focused only on the requirement to notify the registered agent of the location of the records without any checks on whether the accounting records and underlying documentation met the standard or on the requirement imposed on registered agents to monitor the compliance of their clients with accounting obligations and to periodically report results of this monitoring to the FSA. There has been no supervision concerning the availability of accounting records for limited partnerships, international trusts and foundations.	The Seychelles is recommended to strengthen its supervisory and enforcement activity to ensure that all legal entities and arrangements maintain accounting records and underlying documentation in line with the international standard.
	61% of the 207 066 IBCs are currently struck off; however, the effectiveness of the striking off procedure as an enforcement measure in the Seychelles is questionable. Struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with information keeping requirements in order to be restored. Accounting information was found not to be available for EOI when an IBC was struck off.	The Seychelles should ensure that enforcement measures are effective to support the availability of accounting information to the standard in practice.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
EOIR Rating: Non-Compliant <i>(continued)</i>	Accounting information has not been provided in 88% of the cases when requested for EOI. In many instances this has been due to issues concerning the availability of such information.	The Seychelles should ensure that accounting information is available in line with the standard in practice.
Banking information and beneficial ownership information should be available for all account-holders <i>(ToR A.3)</i>		
The legal and regulatory framework is in place but needs improvement	The definitions of beneficial owner under AML law applicable to legal entities and legal arrangements do not fully meet the standard. For legal entities, the definition does not capture control other than through an ownership interest. Moreover, the AML Act does not provide for the identification of senior management as a backstop option when other beneficial owners cannot be identified. For legal arrangements, the definition does not provide for the identification of individuals entitled to less than 25% of a legal arrangement's property or capital.	The Seychelles should ensure that the definitions and methods of identification of beneficial owners of legal entities and arrangements are in line with the international standard.
EOIR Rating: Largely Compliant	The supervision by the Financial Intelligence Unit of the compliance by banks with the requirements for identification of the beneficial owners of bank accounts presents shortcomings. Supervision has not focused on the accurateness of the information kept and financial sanctions upon conviction have not been applied in instances of non-compliance.	The Seychelles should strengthen its system of supervision to ensure the accurateness of beneficial ownership information collected and apply effective sanctions to support the availability of beneficial ownership information in line with the standard.
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>		
The legal and regulatory framework is in place.		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
EOIR Rating: Partially Compliant	In many cases, the Seychelles competent authority’s practice was to serve a notice to produce information only on the registered agent of the legal entity, and not on the legal entity itself, despite the entity generally being the one subject to the obligation to maintain the requested information. This resulted in the competent authority not always obtaining all information.	The Seychelles should ensure that the access powers of its competent authority are used effectively to obtain all information included in an EOI request.
	In instances where information has not been provided, the competent authority has not applied sanctions upon conviction provided in the current legislation, because the procedure to do so is considered too burdensome. Enforcement measures taken generally consisted of requesting the Financial Services Authority to strike off the relevant company; however, those measures have not been effective to compel the production of the information.	The Seychelles should ensure that compulsory powers are applied where appropriate and that they are effective to compel the production of the requested information.
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>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place but needs improvement	The Seychelles has not ratified the Southern African Development Community’s Agreement on Assistance in Tax Matters yet. This agreement, signed in August 2012, provides for exchange of information with 14 jurisdictions, 7 of which are not covered by other EOI instruments signed and ratified by the Seychelles.	The Seychelles should ensure that its exchange of information instruments are brought into force expeditiously.
EOIR Rating: Largely Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and Ratings	Factors underlying Recommendations	Recommendations
<p>EOIR Rating: Partially compliant</p>	<p>The number of incoming requests has increased exponentially during the current review period in comparison with the previous one. However, there has been no correspondent increase in staff and, during part of the review period, only one person was dealing with all incoming requests.</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>
	<p>More than 70% of the EOI requests received during the review period have not been fully replied to by the Seychelles although in all these cases part of the information was provided.</p>	<p>The Seychelles should provide complete responses to its EOI partners in a timely manner.</p>
	<p>During the review period, status updates were not regularly provided by the Seychelles.</p>	<p>The Seychelles is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.</p>

Overview of the Seychelles

12. This overview provides some basic information about the Seychelles that serves as context for understanding the analysis in the main body of the report.

Legal system

13. The Seychelles has a hybrid legal system, where its civil law is inspired by French law and its criminal and commercial laws are inspired by British law. 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 codes approved by the National Assembly (the Parliament) and assented to by the President of the Republic. Under them are regulations and policies issued by government ministers. International treaties have the same legal value as domestic laws approved by the Parliament. In case of conflict with any other law, the international treaty will prevail as far as the Republic is concerned but will not bind the public in general. According to the legal opinion of the Attorney General, international tax treaties will always prevail over domestic law.

14. The Judiciary power consists of the Court of Appeal of the Seychelles, which is the highest and most superior court in Seychelles, followed by the Supreme Court and thereafter by other subordinate courts, as the Magistrates' court, and tribunals. Taxpayers in the Seychelles may lodge an appeal against decisions by the revenue authority by order of precedence, to the Revenue Tribunal, followed by the Supreme Court and lastly to the Court of Appeal.

Tax system

15. The Seychelles adopts a territorial tax system whereby an amount derived by a resident person in carrying on a business is considered to be generated in Seychelles, if derived from activities conducted, goods situated or rights used in the Seychelles regardless of the residence of the parties participating in the transaction and regardless of the place where the agreements are executed. An amount derived by a non-resident person in carrying on a

business is also derived from sources in the Seychelles to the extent that it is attributable to a business carried on through a permanent establishment of the person in Seychelles. As from 1 January 2019, offshore entities including IBCs are allowed to carry on business or hold property in the Seychelles and, in the event they do, they will be liable to tax and subject to the requirements of the Business Tax Act. As Seychelles business tax system is generally based on a territoriality principle, offshore entities will have a tax liability only to the extent they have Seychelles-source income.

16. Business tax is levied on the taxable income of a business which is computed by deducting from the assessable income of the business for the year all allowable deductions. In the case of an entity, government body or a trustee, the tax rates are 25% on the first Seychellois Rupees (SCR)¹ 1 000 000 (EUR 65 360) of taxable income and 30% on the remainder. In the case of individuals, 0% on the first SCR 150 000 (EUR 9 804) of taxable income, 15% between SCR 150 000 to SRC 1 000 000 of the taxable income, and 30% on the remainder. Income and Non-Monetary Benefits Tax is levied in the remuneration of individuals (e.g. income from employment) at progressive rates. Corporate social responsibility tax is imposed on businesses (some exemptions apply), whose annual turnover equals or exceeds SCR 1 000 000 (EUR 65 360) at the rate of 0.5%. There also exists the Tourism Marketing Tax, levied at a rate of 0.5% on the turnover of tourism operators, construction companies, banks, insurance companies, and casino operators when that turnover exceeds SCR 1 000 000 (EUR 65 360).

17. Value added tax (VAT) is a consumption tax levied on the sales of goods and provision of services. VAT is levied at the point of entry and charged at the point of sale, except on goods and services exempted in the Value Added Tax Act, 2010. VAT came into effect on 1 January 2013 and replaced the goods and services tax (GST) which had been in existence since 2001. The current VAT rate is 15%.

Financial services sector

18. As at 31 December 2018 the Central Bank of Seychelles (CBS) had under its supervision 1 credit union, 10 banks (although only 8 were in operation), 2 Non-Bank Credit Institutions (NBCIs), 15 Payment Service Providers (PSPs), and 27 Bureaux De Changes (BDCs). Out of the 8 banking institutions in operation, 6 were privately owned while the Government of the Seychelles has majority ownership in the other 2 institutions. The 6 privately owned banking institutions were foreign-owned (with 2 having minority of the shareholders being domiciled in Seychelles). As at 3 January 2020, there

1. As at 6 January 2020, 1 SCR equalled to EUR 0.06536.

were 9 banks in the Seychelles, 8 of them operational. Moreover, there were 69 licensed international corporate service providers, 21 international trust service providers and 17 foundation service providers.

19. Banks' total assets amounted to SCR 21 654 billion (EUR 1 402 billion) and were funded by deposit liabilities, this being the main form of borrowing and equity capital. The percentage of the financial sector's activities against real GDP is 4.64 % and against nominal GDP is 4.76%.

20. The Seychelles Financial Services Authority (FSA) is the autonomous regulatory body responsible for the non-bank financial services in Seychelles and is established under the Financial Services Authority Act, 2013. The Authority is responsible for licensing, regulating, enforcing regulatory and compliance requirements, monitoring and supervising the conduct of business in the non-bank financial services sector in the Seychelles. These regulated activities are Fiduciary Services, Capital Market and Collective Investment Schemes, Insurance and Gambling. Most importantly for this report, the FSA is also responsible for the registration of International Business Companies, Foundations, Limited Partnerships and International Trusts in the Seychelles.

Anti-money laundering framework

21. The Anti-Money Laundering Act of 2006 (AML Act), as amended, provides for the legal framework for the detection, prevention and reporting of money laundering activities in the Seychelles. The Financial Intelligence Unit (FIU) is the sole AML supervisor in the Seychelles for both financial institutions and other AML-obliged persons.

22. The Seychelles is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). The Seychelles' most recent Mutual Evaluation Report was adopted by the ESAAMLG in September 2018. The report concluded that the AML/CFT competent authorities in the Seychelles demonstrated a fairly good understanding of ML/TF risks. However, it was also found that the FIU had inadequate resources to effectively supervise or monitor compliance with AML/CFT requirements by reporting entities. Whilst the inspections conducted by the FIU on commercial banks and corporate service providers were of a reasonable quality, the lack of sanctions where it appeared warranted has reduced effectiveness. Immediate Outcome 5 concerning the implementation of rules ensuring availability of beneficial ownership information in respect of legal persons and arrangements was rated Low. Technical compliance with FATF's Recommendations 10 (Customer Due-Diligence) and 24 (Transparency and Beneficial Ownership of Legal Person) were rated Largely Compliant and Recommendation 25 (Transparency and Beneficial Ownership of Legal Arrangements) Partially Compliant. Following this exercise, ESAAMLG directed that the Seychelles will be under the enhanced follow-up process.

Recent developments

23. The Seychelles is currently drafting or submitting new draft legislation to its National Assembly to address the shortcomings identified in its 2018 Mutual Evaluation Report by the ESAAMLG. A new AML Act would provide for a new governance structure for the FIU, the establishment of the new AML/CFT committee, establish FSA and CBS as AML/CFT supervisors alongside the FIU and enforcement measures for non-compliance.

24. A new Beneficial Ownership Act would provide for mechanisms for the maintenance of beneficial ownership information for all domestic and international legal persons and arrangements. Additionally, it has been proposed that a central database of beneficial owners be maintained by the FIU (a proposal for a central database has already been adopted by Cabinet).

Part A: Availability of information

25. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

A.1. Legal and beneficial ownership and identity information

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

26. The 2015 Report concluded that identity and legal ownership information requirements in the Seychelles were in line with the standard. However, as a number of measures to improve availability of ownership information had been recently introduced at that time, the Seychelles was recommended to monitor their practical implementation. This included the strengthened supervisory and enforcement activity by the Financial Services Authority (FSA) and the prohibition of bearer shares.

27. This review concludes that, while some supervision and enforcement activities have taken place since the 2015 Report, concerns remain regarding their overall effectiveness. In particular, in relation to IBCs, there are doubts on the effectiveness of the striking off procedure as an enforcement measure. Currently, 61% of the 207 066 IBCs are struck off, many of them due to lack of compliance with legal requirements or payment of fees. However, the effectiveness of the striking off procedure as an enforcement measure in the Seychelles is uncertain. Struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with information keeping requirements in order to be restored and, as such, it remains uncertain what the conditions the court would impose in order to allow restoration of an entity. This situation is also of relevance in relation to the companies that had issued bearer shares (which are currently null and void by the operation of law) and failed to comply with the requirement to convert bearer shares into nominative ones. This is because companies that had issued only bearer shares have been struck off

by the failure to convert such shares into nominative ones maintain their legal personality and assets. In addition, those companies can be restored during a period of 12 years and only at that time will the identity of the shareholders be known.

28. Moreover, with respect to International Trusts and Foundations, while the FSA has performed some monitoring of availability of identity and ownership information, neither follow-up measures nor sanctions have been applied in the instances of non-compliance identified.

29. The standard of transparency and exchange of information on request was strengthened in 2016, particularly to introduce the obligation of availability of beneficial ownership information (not reviewed in the 2015 Report). In the Seychelles, there are deficiencies identified under both the legal framework and the implementation of the requirements in practice. The definitions of beneficial owner for legal entities and arrangements under the AML law are not fully in line with the standard. In the case of legal entities, control through means other than ownership is not provided. In the case of legal arrangements (i.e. trusts, partnerships and foundations), the definition does not provide for the identification of individuals entitled to less than 25% of a legal arrangement's property or capital. Since 2016, IBCs must keep a register of beneficial owners, with a definition broadly in line with the standard (the identification of senior management as a backstop option is missing, however). In addition, there is no legal requirement for the maintenance of information on the beneficial owners of general and foreign partnerships, when those partnerships do not have an on-going relationship with an AML-obliged person in the Seychelles.

30. In terms of implementation, supervision and enforcement of the beneficial ownership requirements, the FIU, due to the limited resources dedicated to this activity, has not regularly focused the supervision on the availability of accurate beneficial ownership information as per the standard and in cases of non-compliance identified, there were no sanctions imposed. The level of compliance of service providers with their obligation to perform customer due diligence (CDD) in relation to local companies is low and awareness raising has only recently started. The FSA has still to commence the supervision on the accurateness of the beneficial ownership information kept for IBCs.

31. During the review period, the Seychelles received more than 100 inquiries for legal and beneficial ownership information. While legal ownership information was generally found to be available, some issues have arisen in a small number of cases, including when companies had been struck off or their registered agent had left the Seychelles. However, more than 60% of requests for beneficial ownership information could not be replied to, in most cases because there has been no co-operation from the registered agent

(see element B.1 for more details). In those instances, the availability of the information remains unclear.

32. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	The definitions of beneficial owner under AML law applicable to legal entities and legal arrangements do not fully meet the standard. For legal entities, the definition does not capture control other than through an ownership interest. For legal arrangements, the definition does not provide for the identification of individuals entitled to less than 25% of a legal arrangement's property or capital. Moreover, the AML law and the IBC Act do not provide for the identification of senior management as a backstop option when other beneficial owners cannot be identified. In addition, beneficial ownership information may not be available in respect of general and foreign partnerships if they do not engage an AML-obliged person in the Seychelles on an on-going basis.	The Seychelles should ensure that the definitions and methods of identification of beneficial owners of legal entities and arrangements are in line with the international standard and beneficial ownership information is available for all general and foreign partnerships.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		

Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	<p>During the review period, the Seychelles applied the striking off procedure as an enforcement measure against International Business Companies that failed to comply with their statutory obligations; however the effectiveness of this measure is uncertain. 61% of the 207 066 International Business Companies are currently struck off. Struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with information keeping requirements in order to be restored. This situation is also of relevance in relation to the companies that had issued bearer shares (which are currently null and void by the operation of law). Availability of ownership information of IBCs is also supported by AML obligations imposed on registered agents, but those have not been subjected to enforcement measures during the review period.</p>	<p>The Seychelles should ensure that enforcement measures are effective to support the availability of ownership information to the standard in practice.</p>
	<p>Whilst the Financial Services Authority performed some monitoring of availability of identity and ownership information for International Trusts and Foundations, neither follow-up measures nor sanctions were applied in the instances of non-compliance identified.</p>	<p>The Seychelles should effectively monitor and enforce the obligation to keep identity information for International Trusts and Foundations.</p>

Practical Implementation of the standard		
	Underlying Factor	Recommendations
	<p>Requirements to identify, keep and verify beneficial ownership information have not been properly supervised and enforced by the relevant authorities during the review period. The supervisors seem to be satisfied with either the existence of a register of beneficial owners or the identification of a natural person pursuant to AML obligations without investigating the accurateness of the information kept in all cases. Financial sanctions upon conviction have not been applied in instances of non-compliance.</p>	<p>The Seychelles should further strengthen its system of supervision to ensure the accurateness of beneficial ownership information collected and apply effective, proportionate and dissuasive sanctions to ensure the availability of beneficial ownership information in line with the standard.</p>
	<p>Beneficial ownership information has not been provided in response to approximately 60% of the EOI requests for this type of information. In most cases that was because the information holder (registered agent) had left the Seychelles and those circumstances also affected the response to six requests for legal ownership information. Although there are mechanisms in place to ensure the availability of information when a registered agent leaves the jurisdiction or otherwise ceases carrying on business, these have not been applied in an effective way in that case. In other cases, beneficial ownership information was not provided due to access issues.</p>	<p>The Seychelles should put in place a robust monitoring and enforcement system to ensure that legal and beneficial ownership information of entities remains available when their registered agents cease to exist or otherwise leave the jurisdiction.</p>
Rating: Partially Compliant		

A.1.1. Availability of legal and beneficial ownership information for companies

33. The Seychelles' law provides for the creation of several types of companies:

- **Limited and Proprietary Companies** (together hereinafter **Domestic companies**) which are regulated by the Companies Act, 1972 (CA).² As of 7 July 2019, there were 3 340 Limited and 4 480 Proprietary companies registered in the Seychelles.
- **Protected Cell Companies (PCC)**, registered under the CA and the Protected Cell Companies Act, 2003 which allows for the creation of one or more cells for the purpose of segregating and protecting cellular assets (for example different classes of insurance), without the need to set up different legal entities. As of 7 July 2019, there were 18 PCCs registered.
- **Companies Special Licensee (CSL)** incorporated under the CA and licensed under the Companies (Special Licences) Act, 2003 (CSL Act) for carrying on activities specified in this act.³ CSLs used to be subject to a corporate tax at a 1.5% and lower withholding tax rates on dividends and interest. From 1 January 2019, these companies are taxed as any other domestic companies. As of 7 July 2019, there were 327 CSLs.
- **International Business Companies (IBC)**, incorporated under the International Business Company Act, 2016 (IBCA),⁴ were initially designed to conduct business solely outside of the Seychelles and were not allowed to carry on business within the jurisdiction or own any substantial property there.⁵ They can be companies limited

2. In the first case (Limited Companies), the liability of a member of the company is limited to the nominal value of the shares registered in his name while in the second case (Proprietary Companies) at least three quarters of the issued shares are held by the directors and where neither members (which cannot be more than 50) nor directors are corporations and where the proprietary company has no holding company.
3. In particular, offshore banking, offshore insurance, reinsurance, investments, holding, marketing, holding intellectual property, acting as a headquarters company, etc.
4. The IBCA 2016 repealed and replaced the International Business Companies Act 1994. All IBCs incorporated under the 1994 Act were deemed to be automatically re-registered as an IBC under the IBCA 2016.
5. Prior to 1 January 2019, IBCs were not allowed to own an interest in immovable property situated in the Seychelles, or to lease immovable property situated in the Seychelles, with the exception to holding a lease of immovable property destined to be used as an office for communication with its members (e.g. holding company meetings) or for preparing and maintaining the company's books and records. Since 1 January 2019, IBCs are allowed to carry on business or hold property in

by shares, guarantees or both shares and guarantees. As of 7 July 2019, there were 207 066 IBCs registered in the Seychelles, of which 80 500 (39%) were active and 126 566 (61%) were recorded as inactive since they were struck-off from the register. The total number of IBCs has sharply increased since the 2015 Report but the number of active IBCs has decreased (as at 1 January 2015, there were 158 487 IBCs of which 89 294 IBCs were active and the remaining were struck off or dissolved). During the review period, on average, 12 300 new IBCs were incorporated in the Seychelles every year.

- **Overseas Companies** are foreign incorporated companies which establish a place of business in the Seychelles or commence to carry on business there. They are regulated by the CA (s. 310). As of 7 July 2019 there were 78 overseas companies registered.

Legal ownership and identity information requirements

34. The 2015 Report found that ownership information in respect of all companies was required to be available in the Seychelles in line with the international standard. There have been no particular changes since the last report on the requirements to collect, keep and update legal ownership and identity information for legal entities in Seychelles.

35. The availability of legal ownership information for companies is ensured through a combination of company, tax and AML laws. The following table summarises these legal requirements.

Legal framework for the availability of legal ownership of companies⁶

Type	Company Law	Tax Law	AML Law
Domestic companies	All	All	All
PCCs	All	All	All
CSLs	All	All	All
IBCs	All	Some	All
Foreign companies (tax resident)	All	All	All

the Seychelles and are considered for tax purposes as all other companies, therefore also subject to the requirements under the Business Tax Act. However, as the income tax system is generally based on a territoriality principle, IBCs will have a tax liability only to the extent they have Seychelles-source income.

6. “All” in this context means that every entity of this type created is required to maintain ownership information for all its owners (including where bearer shares are issued) and that there are sanctions and appropriate retention periods. “Some” means that an entity will be required to maintain information if certain conditions are met.

Company Law requirements

36. **Domestic companies** have to register with the Registrar of Companies (ROC) and with the tax authority. To be incorporated with the ROC, the notarised public deed of incorporation and relevant documents must be provided. Moreover, an updated **list of all shareholders** has to be filed on an annual basis with the ROC (s. 114 and Fifth Schedule of the CA). The information filed with the ROC⁷ is readily available on an online database to which the tax authority has direct access, but representatives from the tax authority disputed the timeliness of updates.

37. Foreign companies (**overseas companies**) with a nexus to the Seychelles have to register in accordance with the CA and are subject to the same requirements as for domestic companies (s. 310 of the CA) concerning the provision of an updated list of shareholders.

38. The obligation to keep and provide ownership information comes with sanctions in the case of non-compliance. For all companies subject to the CA (domestic companies, overseas companies, CSLs and PCCs), the sanctions are provided in that Act, including fines and the possibility of strike-off.⁸ Transfers of shares are subject to stamp duty and must be filed with the Registrar's Office to be lawful (s. 84 of the CA and s. 28 of the Stamp Duty Act).

39. **CSLs** and **PCCs** must provide legal ownership information upon registration to the FSA, file updated shareholder information in their annual return, maintain a register of members and engage a regulated service provider subject to AML law requirements.⁹

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7. Name of the company, date of registration, memorandum of association, articles of association, annual return and audited accounts, identity of directors, secretaries and registered offices.
 8. Section 102(4) of the CA provides for a default fine (e.g. SCR 100 (EUR 7)) for the failure to keep the register of members or to communicate where it is held. Section 114(3) of the CA states that if a company fails to comply with the requirement to file an annual return, the company and every officer of the company who is in default shall be liable to a fine not exceeding SCR 100 (EUR 7) for every day during the first month that default continues, SCR 250 (EUR 16.34) for every day during the next two months that default continues, and SCR 500 (EUR 33) for every day that default continues thereafter. In addition, s. 310 of the CA states that the ROC can issue a note asking to provide the missing information. After fourteen days, if the non-compliance persists, the ROC can ask the court to make an order directing the company and any officer thereof to correct the situation within such time as may be specified in the order. Non-compliance with a court order is a punishable offence.
 9. CSLs, upon incorporation, need to lodge with the ROC, through the FSA, an application which includes the name and address of all shareholders and, in case

40. The FSA does not keep ownership information on IBCs (i.e. IBCs are not required to submit annual returns with shareholder information to the FSA) but all IBCs are required to have a registered agent resident in the Seychelles which is an AML-obliged person and is therefore required to perform CDD procedures on their clients. Up-to-date legal ownership information is required to be kept at their registered office in Seychelles, in the register of members (s. 104 of the IBCA). The failure to have the register of members or for the information reported in it not to be accurate and up to date, is subject to a penalty fee of USD 500¹⁰ and an additional penalty fee of USD 50 for each day during which the contravention continues. Moreover, the Registrar may strike off an IBC that fails to maintain a register of members (s. 172(2) IBCA).

41. All companies have to keep the **register of members** throughout their existence at their registered office (s. 102 of the CA). The information to be provided in the annual return for domestic companies, CSLs and PCCs has to be kept by the ROC (domestic companies) or the FSA (for CSLs and PCCs) without any reference in the law to a specific retention period, which the authorities interpret to be a requirement to keep the information indefinitely. IBCs can remove an entry relating to a former member of the company from the register of members after seven years from the date on which the person ceased to be a member (IBCA, s. 104(4)). In addition, customer due diligence information has to be kept according to AML law by the AML-obliged persons for seven years from the date on which the business relationship ceased.

of nominees, the name and address of the person on whose behalf the nominee is acting (s. 5 of the CSL Act). The application can be lodged only through an international corporate service provider (ICSP) (s. 2.3 of the Guidelines for CSL issued by the FSA in 2003), who is an AML obliged person in the Seychelles. CSLs have to notify the FSA of any changes in terms of legal and beneficial ownership but there are no sanctions provided in the case of non-compliance (s. 17 of the CSL Guidelines). Notwithstanding the above, as transfers of shares of CSLs must be stamped in order to be lawful; the written transfer instrument is submitted to the ROC via the FSA for this purpose. In addition, as described in paragraph 55 of this report, CSLs are required to file updated shareholder information with their annual returns and sanctions are provided in case of non-compliance. Moreover, the ICSP engaged by the CSL, being an AML obliged person, must perform CDD and identify the beneficial owners of the CSLs under their administration. The AML provide for sanctions to the ICSP for non-compliance with CDD and other record-keeping obligations. The Seychelles authorities rely on the AML obligations for obtaining beneficial ownership information (see paragraph 61 and subsequent paragraphs for further details).

10. The amounts are presented in USD in this report when the actual applicable currency per Seychelles law is USD.

All entities in the Seychelles have to engage at least one AML-obliged person (i.e. a notary, an accountant or a registered service provider). It is therefore considered that information is required to be maintained in the Seychelles for the period provided for under the standard.

Tax law requirements

42. Throughout the review period, domestic companies, overseas companies, CSLs and PCCs have been considered to be legal entities liable to tax in the Seychelles and were therefore required to register with the domestic tax authority and obtain a taxpayer identification number (s. 35 of the BTA) and provide an annual tax return (s. 57 of the BTA). Moreover, as of 1 January 2019, as a consequence of the abolition of some preferential tax regimes, all companies (including IBCs) are now liable to tax and should therefore be subject to the requirements of the BTA if they carry on a business in the Seychelles. Legal ownership information has to be provided to the tax administration upon registration (Statutory Instrument 71 of 2010). As a matter of practice, the tax authority regularly relies on legal ownership information as kept by the ROC, the FSA, the service providers or the taxpayer itself.

Struck-off companies and companies that ceased to exist

43. This report finds that the Seychelles has used the striking off procedure as an enforcement measure against IBCs that failed to comply with their statutory obligations (including the payment of annual fees or failing to maintain or provide document); however there are concerns regarding the effectiveness of this enforcement measure. As noted below, struck off companies maintain their legal personality and can be restored for a period of 12 years. This situation is also of relevance in relation to the companies that had issued bearer shares (which are currently null and void by the operation of law) and failed to comply with the requirement to convert bearer shares into nominative ones (see Section A.1.2).

44. Domestic companies, overseas companies, PCCs and CSLs have to report regularly their legal ownership information to the ROC or the FSA during their existence. The ROC and the FSA will keep the information indefinitely as seen above. If companies are struck-off or apply for liquidation, the last available information is therefore expected to still be available with the relevant information holder (that is, the ROC, the FSA). Customer due diligence information is also required to be available with an AML-obliged service provider which all companies are required to engage.

45. Legal ownership information for IBCs can be found at the company's registered address in the Seychelles. The content of the register of members is prima facie evidence of legal ownership and therefore, a person cannot be

considered a shareholder unless his or her name is included in the register of members kept by the entity. Since 2014, every IBC must by 31 December of each year furnish to the registered agent a return in the form of a declaration that the share register located at the office of its registered agent is complete and updated.

46. Where a company has been struck off or dissolved, 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). On the implementation of the AML requirements, see the subsection on the availability of beneficial ownership information below.

47. However, IBCs can be struck off as a result of non-compliance with the requirement to keep information (including legal and beneficial ownership information and accounting records). As noted above, 126 566 out of 207 066 IBCs are currently registered as struck-off companies (see paragraph 33). They are prohibited from carrying on business, dealing with their assets and their directors or members or the IBCs themselves cannot make any claim or claim any right for the IBCs or act in any way with respect to the affairs of the company (s. 274 IBCA). Notwithstanding the above, struck off companies maintain their legal personality and maintain their assets and liabilities for a period of 7 years. After this period they are required to be dissolved and lose its legal personality.¹¹ However, IBCs can still be restored for a period of 12 years from the date they have been struck off (or 5 years from the date they have been dissolved) (s. 277 IBCA). Under those circumstances, a company could keep holding assets whether in the Seychelles or abroad for a period of 7 years during which no compliance with the record-keeping obligations is ensured and, only after such period the company will be dissolved. Even after dissolution, restoration remains possible for a period of 5 years. Moreover, it is not uncommon for companies that were struck off to request to be restored: 7 IBCs were restored upon request in 2015, 16 in 2016, 15 in 2017 and 8 in 2018. Under the court restoration procedure provided in section 277 of the IBCA it is only specified that the court may restore the company subject to such conditions “as it considers appropriate”. Therefore,

11. Under section 275 of the IBCA, where a company that has been struck off the Register under section 272 remains struck off continuously for a period of seven years, it is dissolved with effect from the last day of that period. An application to restore the name of a struck off or dissolved company may be made to the court pursuant to section 279 of the IBCA i) within twelve years of the date of the publication of the striking-off notice; or ii) within five years of the date of the company's dissolution.

it is unclear whether companies would need to remedy any previous contravention to record keeping obligations in order to be restored. In practice, the Seychelles notes that deficiencies would need to be remedied in order for the companies to be restored.¹²

48. In terms of EOI practice, in one instance legal ownership information of a struck off company was not available and the EOI request could not be responded to. This issue has also impacted the response to a number of requests for beneficial ownership and accounting information. The Seychelles should review its system whereby a significant number of non-complying struck off companies remain with legal personality and can be restored for 12 years. Companies regulated under the CA can also be restored for a period of 12 years. In practice, during the review period 5 domestic companies and 30 CSLs have been struck off the register.

Nominees

49. Nominee ownership is regulated in the Seychelles by the International Corporate Service Providers Act, 2003 which includes among the international corporate services “serving as a nominee shareholder in a specific entity” (s. 2). According to the AML law, when service providers act as nominees, they must be licensed and must identify the person for whom they act for (regardless of the percentage of shares this person holds in a legal entity) and, if their customer is a legal person, must identify those persons who hold at least a 25% interest in that legal person.

50. Nominee services are widely used in the Seychelles and CSPs often act as director or as nominee shareholders, or both. In those instances, all identification documents are kept by CSPs at their registered office and made available on request to the Seychelles’ authorities. The information to be reported in the register of members of IBCs (s. 104 of the IBCA) does not include a reference to nominee shareholders, so a nominee will have his or her name recorded as any other shareholder (with no indication of his/her nominee capacity). However, IBC’s register of beneficial owners must state the company’s ultimate individual beneficial owners, who are not nominees (see detailed below in the beneficial ownership section). The IBC must give written notice to anyone whom it knows or has reasonable cause to believe to

12. The Seychelles advises that, as matter of practice, the FSA/Registrar would inform the court if they have objections to the restoration of the IBC. Objections could be made, for instance, if the IBC failed to remedied compliance with the obligations that cause it to be struck off. The Court will then consider this, when deciding whether or not the IBC should be restored.

be a beneficial owner in relation to it (s. 359, IBCA).¹³ For CSLs and PCCs, there is an express requirement under their respective laws to provide the name of the persons on whose behalf the shares are held by nominees (s. 5(2) of the CSL Act and s. 3.3(f) of the PCC Guidelines).

51. Although the requirement under the AML law would be able to capture the beneficial owner under a nominee arrangement, the Seychelles should nonetheless ensure that nominees and nominators are identified and recorded as per the standard, given the fact that nominees are very often used in Seychelles, in particular for IBCs (see Annex 1).

Legal ownership information – Oversight and enforcement measures

52. Requirements to keep legal ownership information are enforced and supervised by different authorities – the ROC and, to a certain extent, the tax authority for domestic and overseas companies, by the FSA, which acts as the business registrar for the international business sector (IBCs, PCCs and CSLs), and the FIU, for AML-obliged persons (see below under beneficial ownership).

53. During the review period, the tax authority (the Seychelles Revenue Commission, the SRC) and the ROC were in charge of the enforcement and supervision of the requirements for domestic companies. The tax authority receives some ownership information upon registration and it regularly undertakes tax inspection programmes to identify companies that may have failed to register for tax purposes. As per the Revenue Administration Act, any person conducting business in Seychelles shall register with the tax office within 14 days of commencing business operations. Licensed business activities in Seychelles requires the business to register and obtain a tax identification number from the tax office before license is issued. During the review period, 53 cases were detected of companies that failed to register, and all of those cases have been remedied. During tax audits, accounting records are regularly checked from which ownership information could also be obtained (see paragraph 132).

54. The ROC has powers to enforce the requirement to file annual returns and therefore to compel the provision of updated ownership

13. See s. 24.6 of the IBC Guidelines (emphasis added): “Section 356(1)(b) requires the Register of Beneficial Owners to include ‘particulars of each beneficial owner’s beneficial interest and how it is held’. Compliance with that would necessitate disclosure of any shares in the company held by the beneficial owner directly or through a nominee. If the latter applies, disclosure of the member holding shares on behalf of the beneficial owner must be made in the Register of Beneficial Owners”.

information. Compliance with the obligation to file annual returns by domestic companies is currently at 80%. The ROC has granted a moratorium until 31 January 2020, after which companies still non-compliant will be subject to fines and could ultimately be struck off the register.¹⁴ Senior representatives from the ROC indicated during the on-site visit that the level of compliance in the period under review was high and that notices were sent to non-compliant companies.

55. For IBCs, CSLs and PCCs, the requirement to have updated ownership information is mainly enforced and supervised by the FSA, which acts as the business registrar for these companies. In the case of CSLs and PCCs, the supervisory role is shared with the ROC, as all instruments for transfer of shares must be duly stamped by the ROC (even though there is an exemption for CSLs to pay stamp duty, the act of stamping must still take place) in order to be lawful. Approximately 6% of the stamp duty acts on share transfers relates to CSLs, which is commensurate to the number of CSLs compared to the total number of Companies Act companies subject to stamp duty. Information is maintained in a searchable format where all transfers of shares in a given company can be verified. CSLs must also notify the FSA of any changes of legal ownership. Finally, CSLs and PCCs must file ownership information in their annual return. The level of compliance with this obligation by CSLs and PCCs under the review period has been of 40% and 80% respectively. Although the level of compliance by CSLs is low, it has increased over time, moving from 6 CSLs submitting the return in 2015 to 132 in 2018. Sanctions have been imposed in the case of non-compliance in 2017 and 2018 (SCR 28 000 (EUR 1 830) and SCR 68 000 (EUR 4 444) respectively). Notwithstanding the low compliance by CSLs with annual filings, the obligation to notify the FSA of any changes in legal ownership as well as the stamp duty requirements sufficiently ensure the availability of up-to-date legal ownership information in the Seychelles in practice.

56. During the review period, the FSA has focused its supervisory activity on the requirement for IBCs to keep a register of members. The FSA undertook a series of theme-based inspections focusing on the record keeping obligation of IBCs under the administration of all registered agents licensed under the ICSP Act. The outcome of this activity in what relates to the maintenance of a register of members is reported in the table below.

14. The filing of annual returns is closely monitored by the Registrar as a fee must be paid along with the submission of the annual return. In the event that no answer is received in response to a notice, the company is included in a list of non-compliant companies, which is published in the official gazette. If within three months of publication in the official gazette returns are still not lodged, companies are struck off from the register.

Supervisory activity by the FSA (legal ownership requirements, register of members)

	Number of inspections (ICSPs)	Number of companies involved (IBCs)	Non-compliance with the requirement	Monetary sanctions imposed	Companies struck off
2016	53	5 168	33	USD 30 750	96
2017	11	5 739	49	USD 0	0
2018	22	7 485	1	USD 0	0
Total	86	18 392	83	USD 30 750	96

57. The inspections during years 2016 to 2018 covered service providers representing 18 392 IBCs (out of a total of 207 066 IBCs registered in the Seychelles, out of which 80 500 are active). The FSA advises that no monetary sanctions or strike off were imposed in 2017 and 2018 because the instances of non-compliance identified were immediately rectified in the course of the on-site inspection. The 2016-18 inspection statistics did not cover struck-off companies. Inspections carried out in December 2018 and February-March 2019 (not included in the table above) covered a sample of struck off companies. Out of the 899 IBCs inspected during that time, including a sample of struck-off companies, 71 IBCs were not maintaining a register of members in the Seychelles.

Availability of legal ownership information in practice in relation to EOI

58. The Seychelles received 122 request letters covering 162 taxpayers during the review period. They contained 125 inquiries for ownership information. Legal ownership information has been provided in all but 11 cases where information has not been provided for different reasons, as summarised below.

- In three cases, the entities under investigation were neither incorporated in the Seychelles nor registered as overseas companies. Furthermore, they were not registered with the tax office and did not have a service provider in Seychelles. Therefore, no information regarding these entities was available in the Seychelles and this was conveyed to the requesting jurisdiction.¹⁵

15. The requests for information indicated only a suspicion that the entities identified in the requests were incorporated in the Seychelles; however, the findings of the Seychelles' investigations as described in the paragraph above indicated that this was not the case.

- In one case, the company had been struck off the register and the information was found not to be available (despite having been sought with the registered agent).
- In one case related to an IBC, the retention period of seven years provided pursuant to the AML law had expired and the information holder advised the Seychelles authorities that the requested information was no longer available.
- Six requests have not yet been responded to because the registered agent has left the jurisdiction. The requests remain open in the Seychelles.

59. There are legal mechanisms in place to ensure that when a registered agent leaves the jurisdiction the information in its possession, including on the legal ownership information of the legal entities he represents, is made available to the FSA. This involves the appointment of an administrator.¹⁶ However, in practice, during the review period the administrator mechanism was not implemented (i.e. the service provider closed down operations in the Seychelles prior to the appointment of an administrator). As a result, six requests could not be responded to because the registered agent had left the Seychelles and the information was found not to be available with other sources. It is therefore recommended that the Seychelles put in place a robust monitoring system to ensure that, when corporate service providers cease to exist or otherwise leave the jurisdiction, legal ownership information on the legal entities they act for as registered agents remains available in accordance with the standard. The Seychelles advises that it is still trying to obtain the records of this service provider with its counterparts abroad. After this case, the Seychelles has experienced another instance where a CSP ceased operation in the jurisdiction by surrendering its licence and the FSA has taken physical custody of the information until such time that this is handed over to a legal custodian.

Availability of beneficial ownership information

60. The EOIR standard was strengthened in 2016 with a new requirement that beneficial ownership information on companies be available. In the Seychelles, this is addressed through a combination of AML law and company law requirements. In particular, CSLs, PCCs and IBCs have an obligation to engage an AML-obliged entity (i.e. a service provider in the

16. Section 31(2) of the FSA Act 2013 provides that the Court may appoint an administrator to take over and manage the financial services business then carried on by the person concerned or carried on by him/her immediately before the revocation or suspension of the licence.

Seychelles) as their registered agent and IBCs are also subject to beneficial ownership requirements under the IBCA. Domestic and overseas companies are ultimately required to engage accountants to prepare financial statements on an annual basis. However, in practice, it was found that these AML-obliged persons are not collecting beneficial ownership information. Each of these legal regimes is analysed below.

Legislation regulating beneficial ownership information of companies¹⁷

Type	Company Law	Tax Law	AML Law
Domestic companies	None	None	Some
PCCs	Some	None	Some
CSLs	Some	None	Some
IBCs	Some	None	Some
Overseas companies	None	None	Some

Anti-money laundering law requirements

61. In the Seychelles, the AML legislation consists of the AML Act, 2006 (the AML Act), as amended, and its regulations, in particular the AML Regulations, 2012 (the AML Regulations). The Financial Intelligence Unit (FIU) has primary competence over AML matters in the Seychelles. However, as part of its regulatory function under section 4(2)(c) of the FSA Act, the FSA is concerned with the reduction of crime and other unlawful activities relating to financial services business. Moreover, under section 27 of the FSA Act, the FSA may take enforcement actions against a licensee if it has contravened or is in contravention of the AML Act or any other relevant law.

62. The scope of AML-obliged persons (reporting entities) is broad and includes financial institutions, company and trust service providers, persons providing by way of business legal or notarial services, auditors and accountants (s. 2 and Second Schedule of the AML Act). All domestic and overseas companies registered in the Seychelles, as entities carrying on business in the Seychelles and subject to business tax, are required to have audited financial

17. The table shows each type of company and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” in this context means that every company of this type is required to maintain ownership information in line with the standard and that there are sanctions and appropriate retention periods. “Some” in this context means that a company will be required to maintain information if certain conditions are met or that the information maintained does not fully meet the requirements of the standard.

records and therefore to engage for this purpose accountants/auditors based in the Seychelles¹⁸ who are AML-obliged persons. CSLs, PCCs and IBCs have an obligation to engage an AML-obliged corporate service provider (as their registered agent).

63. An AML-obliged person must apply CDD measures (including identification and verification of beneficial owners) in respect of customers, business relationships and transactions, and conduct on-going monitoring of business relationships as prescribed in regulations (s. 4, AML Act).¹⁹ The definition of customer, in relation to a transaction or an account, includes “the person in whose name a transaction or account is arranged, opened or undertaken” (s. 2, AML Act). Information must be kept for a minimum period of seven years (AML Regulation 6(2)). AML Regulation 9(2)(b) requires AML-obliged entities to keep the documents, data or information obtained for the purposes of customer due diligence measures up to date, although a specific timeframe for the update of the information is not provided. The Seychelles should ensure that beneficial ownership information of IBCs and other relevant entities and arrangements is kept up to date in practice in accordance with the standard (see Annex 1).

64. Section 4 of the AML Regulations defines **beneficial owner**, in the case of a legal entity, as “any individual who: (i) exercises control over the management of the legal entity; (ii) in respect of a legal entity other than a legal entity whose securities are listed on a recognised exchange, owns or controls directly more than 25% of the shares or voting rights in the body corporate or legal entity”.

65. The above definition is not in line with the standard as it does not refer to ultimate ownership or control (i.e. direct or indirect control over the

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18. Pursuant to section 157(1) of the CA to be an auditor the person must be “a member of a body of accountants (whether established, in or outside Seychelles) for the time being recognised for the purposes of this section by the Minister”. The Seychelles confirmed that only auditors based in the Seychelles qualify under that provision.
19. “Customer due diligence measures” include: “(i) identifying the customer and verifying the customer’s identity on the basis of documents, data or information obtained from a reliable and independent source or from any other sources that the reporting entity has reasonable grounds to believe can be relied upon to identify and verify the identity of the customer; (ii) where the customer is not the beneficial owner, identifying the beneficial owner and taking reasonable measures, on a risk-sensitive basis, to verify the identity of the beneficial owner, including, in the case of a legal entity, partnership or trust measures to understand the ownership and control structure of that legal entity, partnership or trust” (s. 3, AML Regulations).

entity or by control through other means). It is also unclear how the two steps of the definition interact – i.e. if they apply cumulatively or alternatively. Moreover, senior managerial positions are not considered as a backstop option in case ultimate beneficial owner natural persons cannot be identified. In any case, companies (including IBCs) are required to maintain a register of directors.

66. Interviews during the on-site visit with representatives from both the public and private sector confirmed that the identification of natural persons through a controlling ownership interest would be sufficient to satisfy the legal requirements, without a need to further identify persons that exercise control by other means if there are doubts concerning whether persons having a controlling ownership interest are beneficial owners. The Seychelles is therefore recommended to bring the definition of beneficial owner under AML law in line with the standard.

67. **Reliance on third parties** for the purpose of satisfying CDD requirements, including for the identification of the ultimate beneficial owners, is expressly provided under the law (s. 12 of the AML Regulations). Regulation 7(c) of the AML Regulations 2012 requires a third party introducer (foreign regulated person) to be subject to legal AML/CFT requirements in its home country that are consistent with the requirements of the FATF in relation to such business and be subject to supervision by a foreign regulatory authority. The AML-obliged person must immediately obtain the identity of the beneficial owner and obtain a written undertaking from the foreign introducer that it will produce on request, without delay, original or certified copies of the CDD records. Regulation 12(6) of the AML Regulations 2012 provides that where an AML-obliged person relies on an undertaking from a third party introducer (foreign regulated person) to apply CDD measures, the ultimate responsibility for applying the CDD measures remains with the reporting entity (i.e. the reporting entity is liable for any failure to apply CDD measures).²⁰ The offshore sector (e.g. for IBCs) in Seychelles substantially relies on third parties for CDD activities.

Implementation, enforcement and supervision of AML requirements

68. The FIU is the body in charge of supervising and enforcing the implementation of the AML rules (s. 16 of the AML Act) although, as noted above, the FSA can also check the compliance with these rules.

20. This does not apply to banks and other financial institutions, as pursuant to AML Regulation 12(4), they are not authorised to rely on CDD performed by third parties.

69. The FIU's compliance office during the review period comprised 4 persons, who were in charge of supervising a total of 399 entities under their competence, including 48 lawyers, 26 accountants and 37 auditors, 69 ICSPs (representing more than 200 000 registered IBCs), 21 international trust service providers (representing 784 International Trusts), 18 foundation service providers (representing 760 foundations) and 9 banks.

70. While there was no policy in place on how to select entities for controls, it was a common practice to consider service providers in the offshore sector (ITCSPs) and banks as high-risk entities while other entities, mainly involved in domestic business or in the provision of legal and accounting services (lawyers, notaries and accountants) were considered low-risk and were only marginally subject to supervision.

71. After an inspection, an examination report is issued to the assessed entity outlining the deficiencies identified, together with recommendations for implementation. The assessed entity is provided with a four-week timeline to provide an Action Plan. In the instances of non-compliance, they are given a specific timeline to rectify the deficiencies. As part of the examination, samples are requested to assess the implementation of the obligations under the AML Act, which includes copies of CDD documentation. The table below shows the supervisory activity performed during the review period by the FIU.

Supervisory activity by the FIU (BO requirements)

	Total number of examinations	Examinations on banks and ITCSPs	Number of samples checked	Cases of non-compliance (BO)	Sanctions applied (EUR)	Follow-up reports	Compliance after follow-up reports
2016	13	2 ITCSPs	53	32	0	yes	83%
		5 banks	219	146	0	yes	1 (ongoing)
2017	10	1 ITCSPs	12	2	0	yes	100%
		3 banks	85	83	0	yes	(ongoing)
2018	13	3 ITCSPs	232	15	0	yes	100%
		2 banks	49	18	0	yes	(ongoing)
Total	36	6 ITCSPs	297	49	0	83%	
		10 banks	353	247	0	60%	

72. In terms of compliance with beneficial ownership requirements, the identification of natural persons through a controlling ownership interest was considered as sufficient to meet the legal requirements. The issues identified as requiring rectification were of a formal nature (e.g. documents attached

were not legible). There have been instances where the deficiencies in the CDD performed by a foreign introducer were identified but no sanctions were applied in the Seychelles' AML-obliged entities who relied in the foreign introducers. Since there are no administrative sanctions provided in the law, a court procedure would be required to apply sanctions upon conviction. With all the costs associated to that, the FIU has not pursued this avenue and as a result financial sanctions have not been applied. The Seychelles advise that AML-obliged entities were nonetheless recommended to rectify the deficiencies identified and follow-ups are conducted to assess the measures being implemented.

Company law requirements

73. CSLs and PCCs have to register with the ROC through the FSA and file an annual return with up-to-date legal ownership information (ss. 5 and 15 of the CSL Act and s. 12 of the Protected Cell Companies Act and s. 3 of the PCC Guidelines). Both guidelines generally refer to the need to provide beneficial ownership information upon registration with the FSA and to keep this information up to date. There is no definition of beneficial ownership in either the law or the guidelines. The Seychelles is therefore recommended to ensure that beneficial ownership in line with the standard is maintained for CSLs and PCCs.

74. Since 1 December 2016, IBCs are required to keep at their registered office in the Seychelles a register of their beneficial owners (s. 356 of the IBCA). Beneficial owner is defined under this act as

“any individual (excluding a nominee who acts on behalf of another) who in respect of a company (a) ultimately owns (directly or indirectly and whether alone or jointly with another person or entity) more than 25% of the shares in the company (b) exercises (directly or indirectly and whether alone or jointly with another person or entity) ultimate control over more than 25% of the total voting rights of members in the company (c) is entitled (directly or indirectly and whether alone or jointly with another person or entity) to appoint or remove a majority of the directors of the company; *or* (d) is otherwise entitled to exercise or actually exercises control over the company or its management”.

75. An entry relating to a former beneficial owner of the company may be removed from the register after seven years from the date on which that person ceased to be a beneficial owner of the company (s. 356(5) IBCA). Failure to keep the register in the prescribed way entails a sanction on the company and on their directors who knowingly permit the contravention of USD 500 and an additional penalty fee of USD 50 for each day or part thereof during which the contravention continues.

76. This definition contains the elements of control and ownership required under the standard. The use of the term “or” indicates that any person that meets one of the four tests is required to be identified. If more than one person meets any of the tests all these persons will then need to be identified. Senior managerial positions are not considered as a backstop option in case ultimate beneficial owner natural persons cannot be identified. Nonetheless, there is a legal requirement for the IBC to maintain a register of directors in its registered office in the Seychelles (IBCA, s. 150). While there is a requirement for IBCs to keep beneficial ownership information up to date (s. 356(2)), there are no specific indications on how and when the information has to be updated. The Seychelles is recommended to ensure that beneficial ownership information of IBCs is kept up-to-date in practice (see Annex 1).

77. The register of beneficial owners must contain the following information (s. 356 IBCA): (a) the name, residential address, date of birth and nationality of each beneficial owner of the company; (b) particulars of each beneficial owner’s beneficial interest and how it is held; (c) the date on which a person became a beneficial owner of the company; and (d) the date on which a person ceased to be a beneficial owner of the company.

78. An IBC must identify each of its beneficial owners (s. 359 IBCA). It must give written notice to anyone whom it knows or has reasonable cause to believe to be a beneficial owner in relation to it, which notice must require the addressee (a) to state whether or not he is a beneficial owner in relation to the company; and (b) if so, as applicable to provide, confirm or correct the registrable particulars relating to him. A company may also give written notice to a person if the company knows or has reasonable cause to believe that the person knows the identity of a beneficial owner of the company or knows the identity of someone likely to have that knowledge. A company may at any time give written notice to a member of the company to provide, confirm or correct the registrable particulars of the beneficial owner in relation to the shares or guarantee membership interest in the company held by the member. Notices should be complied with within 30 days. Moreover, within 30 days of a person becoming a beneficial owner in relation to a company he must give written notice to the company of the registrable particulars relating to him.

79. Beneficial owners provide self-declarations, and the legislation does not require the company to verify the declaration or get supporting documents. That said, if a person gives false or misleading information to a company the person commits an offence and is liable on conviction to a fine not exceeding USD 50 000. Moreover, any voting and distribution rights attaching to the relevant shares or guarantee membership shall be suspended until such time as full compliance with the contravened provisions has been made; and any right to transfer or redeem the relevant shares or guarantee membership shall be suspended until such time as full compliance with the

contravened provisions has been made (s. 360 IBCA). The Seychelles advises that the correctness of the beneficial ownership information will be verified by a dedicated team by the FSA when conducting on-site inspections; however, this has not been implemented yet (see details below). The procedure for those inspections also need to be clarified by the Seychelles authorities, as the IBCs are not required to maintain documentation supporting the beneficial owners' self-declarations.

Implementation, enforcement and supervision of company law requirements

80. The FSA only commenced its oversight on the compliance of IBCs with the beneficial ownership requirements introduced in December 2016 in April 2018 (a transitional period was accorded to IBCs in the interim). A supervisory programme took place between September and November 2018 during which the FSA verified a total number of 2 184 IBCs in order to assess whether they were keeping a register of beneficial owners, whether CDD documents were being maintained by service providers in respect to the beneficial owners stated on the register and whether a beneficial owner self-declaration form had been filled in. Following the testing of beneficial ownership information, the FSA undertook a series of inspections regarding the availability for beneficial ownership information as per the table below.

Supervisory activity by the FSA (BO requirements)

	Number of inspections (on-site)	ICSPs inspected	Number of samples checked	Cases of non-compliance (BO)	Compliance prior the imposition of sanctions	Monetary sanctions	Striking off procedure initiated
2016	n/a	0	0	n/a	n/a	n/a	n/a
2017	n/a	0	0	n/a	n/a	n/a	n/a
2018	22	22	5 301	458	241	0	217
Total	22	22	5 301	458	241	0	217

81. However, there have been no checks so far on whether the beneficial owners were identified following the specific requirements of the law. No supervision has been conducted yet on other companies also under the supervision of the FSA (i.e. CSLs and PCCs). Striking-off procedures were initiated but monetary sanctions were not applied.

Conclusion on supervision by the FIU and the FSA

82. The FSA has yet to commence supervision and enforcement on the accurateness of beneficial ownership information kept for IBCs (e.g. the new beneficial ownership register) and has still to commence any kind of supervision on CSLs and PCCs. The FIU has not regularly focused the supervision on the availability of accurate beneficial ownership information as per the standard and even in cases of non-compliance identified, there were no sanctions imposed. In case of domestic companies, the level of compliance of AML-obliged service providers with their obligation to perform CDD is extremely low and awareness raising has only recently started.

83. Requirements to identify, maintain and verify beneficial ownership information have therefore not been sufficiently supervised and enforced by the relevant authorities during the review period. The supervisors seemed to be satisfied with either the existence of a beneficial ownership register (FSA) or the identification of a natural person without taking additional steps to verify the accuracy of the information kept in all cases (FIU).

84. The Seychelles is recommended to further strengthen its supervision programmes and apply effective sanctions in cases of non-compliance to ensure the availability of adequate, accurate and up-to-date beneficial ownership information in line with the standard.

Availability of beneficial ownership information in practice in relation to EOI

85. The Seychelles received 102 inquiries for beneficial ownership information during the review period. In 63 cases, representing 62% of these inquiries, the information was not provided to the requesting party. In 46 of these cases, the information was not available because the registered agent had closed operations in the Seychelles, prior to the appointment of an administrator under section 31(2) of the FSA Act. It remains unclear whether beneficial ownership information was available in such cases. While setting up of the administrator mechanism provided under section 31(2) of the FSA Act 2013, it has not been implemented by FSA in that case. In 14 cases, there were access issues (a refusal from the registered agent, as further analysed in section B.1 of this report). In two cases, the retention period had expired and the information was not found to be available. In the remaining case, the Seychelles had provided senior management information to the requesting party, but found no documentary evidence supporting the identification of senior management as beneficial owner.

86. The Seychelles reported that in relation to requests received after the review period (including the second half of 2018 and in 2019), beneficial ownership information has been found to be available and provided to EOI

partners in all instances. This has not been confirmed by peer input, as this relates to requests outside the review period.

A.1.2. Bearer shares

87. Domestic companies have been prohibited since 2011 from issuing bearer shares (Companies Ordinance (Amendment) Act, 2011). Moreover, it was found that no domestic company had issued bearer shares before this prohibition came into force (see 2015 Report for further details).

88. IBCs had the right to issue bearer shares and have exercised this right in practice. In 2009, an amendment to the IBCA required IBCs to register the name of owners of bearer shares into the register of members to be kept by the registered agent (as such, bearer shares were required to be “registered bearer shares”).²¹ The IBC Amendment Act, 2013 prohibited the issuance of new bearer shares since 16 December 2013 and all previously issued bearer shares (including both registered and unregistered bearer shares) that had not been converted to nominative shares were deemed legally void as from 16 June 2014. The 2015 Report noted that, although the amendments should ensure the availability of legal ownership information in respect of companies which had issued bearer shares, the implementation of the legal amendments in practice remained to be fully tested, in particular the registration of all holders of abolished bearer shares in the share register of the IBCs and the cancellation of ownership rights (based on bearer shares) from June 2014 onwards. The Seychelles was thus recommended to monitor the implementation of the 2013 amendments to ensure that information on all shareholders of IBCs was available in practice. The new IBCA enacted in 2016 confirmed the prohibition to issue bearer shares and the prohibition to convert nominative shares into bearer shares and to exchange nominative shares for bearer shares. Shareholder is defined as a person “whose name is entered in the register of members as the holder of one or more shares, or fractional shares, in the company” (s. 2 IBCA).

89. As described in the 2015 Report, the Seychelles identified approximately 7 000 IBCs which had issued bearer shares as at June 2013. As at June 2014, (i) 2 342 IBCs had recalled and cancelled their issued bearer shares and have issued nominative shares in substitution for the cancelled bearer shares; and (ii) 672 IBCs had failed to identify all their shareholders (out of these,

21. 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 registered agent 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.

443 had already been struck off and 229 were in the process of being struck off). The Seychelles was recommended to monitor the situation to ensure that information on all shareholders of IBCs was available in practice.

90. Since then, the Seychelles reported that 954 IBCs who had issued 100% of their shares as bearer shares were identified as having failed to convert the bearer shares held into nominative shares. The situation of these entities is further described below.

- 433 IBCs that had initially failed to convert their bearer shares into nominative shares have done so since then.
- 229 IBCs were struck off because of failure to convert bearer shares. As those companies had 100% bearer shares, once they failed to convert bearer shares into nominative shares and the bearer shares became null and void, those companies did not meet the requirements of having a minimum of one shareholder provided under s. 99 of the IBCA and were struck off).
- 292 IBCs had already been struck off for non-payment of fees or dissolved during the striking off process. Ten of these IBCs with registered bearer shares have since then been restored, following an application to the court, and shares were issued to those listed on the register as owning the registered bearer shares at the date of striking off. Unregistered bearer shares cannot be used to restore a struck-off company since the courts cannot verify the ownership due to lack of a registry.

91. The legal effect of striking off (s. 274 of the IBCA) is that the IBC and its directors and members are prohibited from carrying on the company's business, and as a result a struck off company cannot issue shares or register share transfers or record any change of member to the company's register. However, struck-off companies maintain their legal personality and can be restored during a 12-year period from the moment they were struck-off. As part of the application for restoration, struck-off companies that were previously held only by means of bearer shares would need to issue nominative shares before the company became operational (i.e. a company must have a minimum of one shareholder, s. 99 of the IBCA). However, as noted under A.1.1, it remains that struck off companies can keep their legal personality and fail to comply with the obligations to maintain ownership information for 12 years before a company is finally dissolved. Therefore, the recommendation given under A.1.1 applies to the IBCs that have issued bearer shares and have been struck off but that can still be restored in accordance with the Seychelles law.

92. In respect to the outstanding balance of IBCs that had issued bearer shares (i.e. 3 251 IBCs), this relates to IBCs that had issued both bearer

shares and nominative shares. Those companies, as other IBCs that had issued bearer shares, were required to recall and cancel bearer shares within six months (by 1 July 2014); bearer shareholders that presented their bearer shares by that deadline would have the right to request the IBC to convert the bearer shares into registered shares. After that timeframe, the bearer shares would be null and void. The FSA did not take any action against these IBCs in view that they had registered shares and therefore they were in compliance with section 99 the IBCA. However, there was no monitoring on whether all these IBCs have actually cancelled the bearer shares which are null and void by law. The FSA advises that in the course of the inspections described in subsection A.1.1, it had not encountered any IBC that had failed to cancel bearer shares. The Seychelles is recommended to monitor that all the bearer shares have been fully cancelled if they have not been converted into nominative shares by 1 July 2014, as required by law (see Annex 1).

A.1.3. Partnerships

93. The 2015 Report found that the legal and regulatory framework in the Seychelles required the identification of partners of a partnership in accordance with the standard and that such legal framework had been adequately implemented in practice. There has been no change in those requirements.

Types of Partnerships

94. Partnerships can be established under the Civil Code, 1976 (hereinafter, general partnerships) or under the Limited Partnership Act, 2003 (the LPA). As of July 2019 there were 25 partnerships established under the Civil Code and 25 limited partnerships. While foreign partnerships cannot be set up under the laws of Seychelles, foreign partnerships can do business therein.

Information on the identity of partners

95. For partnerships established under the Civil Code, the availability of up-to-date information on the identity of partners is ensured through a combination of several requirements, in particular the registration with the ROC under the Business Names Act, 1972, and the registration and obligation to provide an annual tax return to the tax authority, containing the name of each of the partners as well as details of the distribution of profits amongst them. The same rules apply in respect of foreign partnerships carrying on business in the Seychelles.

96. Limited partnerships created under the LPA 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 and provide,

among others, the address of their registered office in the Seychelles and the identity of their general partners. The 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. If default is made in complying with these requirements, the designated general partner is liable to a penalty of USD 25 for each day that such default continues (s. 11 of the LPA).

Beneficial ownership information

97. There are no legal requirements to support the availability of beneficial ownership of general and foreign partnerships in all cases. If those partnerships have a relationship with an AML-obliged person, this person is required to maintain beneficial ownership information. However, there is no legal requirement for general and foreign partnerships to do so. The Seychelles is recommended to ensure that beneficial ownership information is available for all general and foreign partnerships carrying on business in the Seychelles (see Annex 1).

98. Limited Partnerships have an obligation to engage a licensed corporate service provider in the Seychelles, who are AML-obliged persons.

99. The AML Act defines the beneficial owner of a partnership as “any individual who (i) ultimately is entitled to or controls, directly or indirectly, more than 25% of the capital or profits of the partnership or more than 25% of the voting rights in the partnership; or (ii) otherwise exercises control over the management of the partnership”.

100. The definition of beneficial owner above does not include individuals that have an ownership or control interest below 25%, which is not in line with the Terms of Reference in respect of legal arrangements. All partnerships, including limited partnerships, in the Seychelles are legal arrangements. The Seychelles is recommended to ensure that beneficial ownership information of partnerships is available in line with the standard.

Oversight and Enforcement

101. The availability of information on the identity of partners of general and foreign partnerships is mainly supervised and enforced by the ROC and the SRC and the system in place seems to ensure the availability of information in practice.

102. With respect to limited partnerships, the 2015 Report noted that the Seychelles had introduced measures to further strengthen limited partnerships' compliance with their record keeping obligations and recommended

the Seychelles to monitor their proper implementation.²² The FSA reports having inspected all 25 Limited Partnerships and that in all cases the register of partners was available.

103. Beneficial ownership requirements for partnerships are supervised only by the FIU which indicated that all the limited partnerships have been inspected during the review period. However, the same considerations and recommendations above for the scope of the supervisory activity performed by the FIU for legal entities hold true in this case.

Availability of partnership information in EOI practice

104. There have been no requests during the review period concerning partnerships in the Seychelles.

A.1.4. Trusts

105. The 2015 Report concluded that 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 trust service provider. The 2015 Report also noted that FSA had recently strengthened its supervisory and enforcement activity to ensure that the required information was actually kept in practice and that the FSA's new supervisory and enforcement activity needed to be monitored.

Requirements to maintain identity information in relation to trusts and implementation in practice

106. The Seychelles law provides for establishment of trusts under the International Trust Act, 1994 (ITA), while domestic trusts are not provided in the law. An International Trust (IT) can be set up where (i) the settlor is not at any time during the life of the trust resident in the Seychelles; (ii) no trust property is situated there; and (iii) at least one trustee is resident in

22. As described in the 2015 Report, the Seychelles introduced an 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).

the Seychelles (section 4(1)(a)(b)(c) ITA). When creating an IT, the settlor must engage an international trustee service provider licensed by the FSA to conduct international trust business under the ICSP Act. The settlor has the power to choose the proper law of the IT and that law may be foreign law (s. 6 ITA). A trust is required to be registered by the licensed service provider with the FSA; however, no identification of the settlor or beneficiaries is required to be provided.

107. Pursuant to s. 29A of the ITA, a trustee is required to keep or cause to be kept at the trustee's principal place of business in the Seychelles, an up-to-date register, known as an International Trust Register, containing the full name, address, nationality or place of incorporation of each trustee, beneficiary or settlor; the date on which a person is appointed or otherwise became or ceased to be a trustee, beneficiary or settlor. As of July 2019, there were 772 ITs registered with the FSA. An IT is not liable to tax and therefore is not required to register with the SRC.

108. In addition, AML Law requires that any person providing trustee services in the Seychelles maintain information on the identity of trustees, beneficiaries and settlors regardless under which law the trust is created.

Oversight and enforcement (identity requirements)

109. During the review period (in 2016), the FSA undertook a series of compliance testing programmes to ascertain the level of compliance with record keeping obligation over a sample of 401 ITs registered under the ITA. The findings of the compliance testing can be summarised below:

Total trusts inspected	Active trusts	Terminated trusts	Register of settlor		Register of Beneficiaries		Accounting records	
			Available	Not Available	Available	Not Available	Available	Not Available
401	302	99	344	57	329	72	312	89

110. Following the 2016 compliance testing programmes, no additional supervisory activity took place to verify whether instances of non-compliance were remediated and no sanctions were imposed. There was no oversight concerning the remaining ITs. The Seychelles is recommended to ensure that the obligations to keep information on the identity of settlors, beneficiaries and trustees for International Trusts are supervised and enforced. The FSA scheduled an inspection programme focused on ITs for 2020.

Beneficial ownership requirements for trusts

111. All ITs must have an international trustee service provider who is subject to AML obligations. Beneficial owners of ITs are not defined under the ITA which only states that a “trustee has, in relation to the trust property, all the powers of a beneficial owner” (s. 34 of the ITA). Under AML law, a beneficial owner of a trust is defined as “(i) any individual who is entitled to a specified interest in at least 25% of the capital of the trust property; (ii) the class of persons in whose main interest the trust is set up or operates except where the trust is set up or operates entirely for the benefit of the individuals referred to in subparagraph (i); (iii) any individual who has control over the trust.” Control in the case of trusts is defined as “power, whether exercisable alone, jointly with another person or with the consent of another person, under the trust instrument or by law to (a) dispose of, advance, lend, invest, pay or apply trust property; (b) vary the trust; (c) add or remove a person as a beneficiary to or from a class of beneficiaries; (d) appoint or remove trustees; or (e) direct, withhold consent to or veto the exercise of a power such as is mentioned in paragraph (a), (b), (c) or (d).” (s. 4(1)(c) and s. 4(2) of the AML Regulations).

112. As noted above, under the ITA, the international trustee service provider must keep an IT register with information on all parties to an IT. However, if those parties are legal entities or arrangements, the ITA does not provide for an obligation for the trustee to look through those entities and arrangements and identify their beneficial owners. It is noted, however, that international trustee service providers as well as other persons providing trustee services are AML-obliged entities and, as such, are required to perform CDD and identify beneficial owners in accordance with the AML law definition. It remains that the AML law does not require the identification of individuals that are entitled to a specified interest of less than 25% of the capital of the trust property. As such, individuals who are beneficiaries of less than 25% of the capital or property of the trust (through an ownership chain) will not be identified. The Seychelles is recommended to bring the definition of beneficial owner for legal arrangements such as trusts in line with the standard.

Oversight and enforcement (beneficial ownership requirements)

113. The international trustee service providers are supervised by the FIU for their compliance with the AML law. The same considerations and recommendations above for the supervisory activity performed by the FIU for legal entities hold true also in this case.

Availability of trust information in EOI practice

114. During the review period The Seychelles received three requests for identity information on trusts. Information was provided to the satisfaction of the requesting partners.

A.1.5. Foundations

115. The 2015 Report concluded that the legal and regulatory framework in the Seychelles required information on founders, members of the executive board and beneficiaries of a foundation to be available in Seychelles. However, the implementation of these requirements in practice needed to be monitored.

116. The Seychelles law provides for the establishment of foundations under the Foundations Act, 2009. All foundations are required to have a registered agent in Seychelles, licensed under the ICSP Act. Foundations must register with the FSA and the registered agent is required to submit the foundation charter upon registration. As of July 2019, there were 758 foundations registered, which represents a significant increase since the 2015 Report, when the number of foundations as at December 2014 was 421. The foundation charter must specify the name and address of the founders; the foundation's registered agent and each of the initial members of the foundation council. The charter may also provide the name and address of the beneficiaries, but that is not mandatory. Foundations are not required to be registered with the SRC. All foundations must keep at their registered office in the Seychelles a register containing information on the members of the foundation council, beneficiaries, founders, foundation protector (supervisory person) and any (non-councillor) authorised agent or power of attorney holder (s. 77 Foundations Act). A failure to comply with this requirement is an offence and the foundation is liable upon conviction to a fine not exceeding USD 25 000.

117. Registered agents 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 obligations to maintain (i) registers under s. 77 of the Foundations Act referred to above; and (ii) the accounting records (see A.2 below). Upon detection of a failure to keep such records, the registered agent is required to send a notice to the entity requesting it to remedy the deficiency.

118. During the review period (in 2016), the FSA undertook a series of compliance testing programmes to ascertain the level of compliance with record keeping obligation over a sample of 345 foundations registered under the Foundations Act. Non-compliance was detected in 84 cases (i.e. in about 25% of the sample). According to the FSA, since this programme only aimed to ascertain the level of compliance and the practice of the sector, no

sanctions were imposed. Despite the recommendation included in the 2015 Report to monitor the availability of identity information for the parties to the foundations, as in the case of trusts, no additional supervisory activity took place to verify whether instances of non-compliance were remediated and no sanctions were imposed. There was no oversight concerning the remaining foundations. The Seychelles is recommended to effectively supervise and enforce the availability of information on the identity of founders, members of the foundation council and beneficiaries of a foundation.

Beneficial ownership information

119. The residual definition of beneficial owner provided under the AML law for a legal entity, partnership or trust other than one referred to in other specific paragraphs of the law would apply to foundations. Accordingly, a beneficial owner means: “(i) where the individuals who benefit from the legal entity, partnership or trust have been determined, any individual who benefits from at least 25% of the property of the legal entity, partnership or trust; (ii) where the individuals who benefit from the legal entity partnership or trust are yet to be determined, the class of persons for whom the legal entity, partnership or trust is set up or operates; (iii) any individual who exercises control over at least 25% of the property of the legal entity, partnership or trust” (s. 4(1)(d) of the AML Regulations).

120. This definition is not in line with the standard since it requires the identification of individuals who benefit from at least 25% of the property. As a result, individuals entitled to less than 25% of the foundation property would not be required to be identified. The Seychelles is recommended to bring the definition of beneficial owner applicable for foundations in line with the standard.

121. Registered agents of foundations are supervised by the FIU for their compliance with the AML law. The same considerations and recommendations above for the supervisory activity performed by the FIU for legal entities, partnerships and trusts hold true also in this case.

Availability of foundations information in EOI practice

122. During the review period, the Seychelles received one request concerning foundations. To reply to this request, the Seychelles was able to provide information on founders, members of the foundation council, and beneficiaries, as well as the foundation’s certificate of incorporation.

A.2. Accounting records

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

123. The 2015 Report concluded that accounting records and underlying documentation were required to be available in line with the international standard. That report noted that the Seychelles had introduced a number of reporting requirements to support the availability of accounting information in practice, especially in respect of entities that maintained their accounting documentation outside the Seychelles. As the measures were new at the time, the Seychelles was recommended to monitor their implementation to ensure that accounting information was available in practice for all relevant entities.

124. The present review finds that the record-keeping requirements for legal entities and legal arrangements operating in the offshore sector have not been adequately enforced in practice. The supervisory activity over the years 2015-18 has only focused on the requirement imposed on IBCs to notify their registered agents of the location of the records and no checks were conducted on whether the accounting records and underlying documentation met the requirements of the standard. There has been no supervision on the requirement imposed on registered agents to monitor the compliance of their clients with accounting obligations and to periodically report results of this monitoring to the FSA. Similarly, there has been no supervision concerning the availability of accounting records for limited partnerships, international trusts and foundations.

125. This review also finds that there is a legal gap concerning the availability of accounting records and underlying documentation when an IBC ceases to exist. Moreover, accounting information and underlying documentation was found not to be available in practice in relation to companies that were struck off. This is very relevant in the context of the Seychelles as 61% of the 207 066 IBCs are currently struck off.

126. These deficiencies have severely affected the EOI practice during the review period, as accounting information has not been provided in response to 88% of the 134 cases where it has been requested. During the review period, the high level of non-compliance, even with the basic requirement for IBCs to notify their registered agents of the location of the accounting records, the ineffectiveness of sanctions imposed to support compliance and the lack of supervision concerning whether the actual accounting records meet the international standard put into question the availability of this type of information in practice. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	Although the law requires IBCs to keep accounting records and underlying documentation for seven years, it is not clear who would be legally responsible to keep such records if the company itself ceases to exist and to which persons the available sanctions could apply.	The Seychelles should ensure that accounting records and underlying documentation are maintained for a minimum period of five years in cases where an IBC ceases to exist and that the requirements are supported by effective enforcement provisions.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		
Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	The supervisory activity over IBCs during the review period has focused only on the requirement to notify the registered agent of the location of the records without any checks on whether the accounting records and underlying documentation met the standard or on the requirement imposed on registered agents to monitor the compliance of their clients with accounting obligations and to periodically report results of this monitoring to the FSA. There has been no supervision concerning the availability of accounting records for limited partnerships, international trusts and foundations.	The Seychelles is recommended to strengthen its supervisory and enforcement activity to ensure that all legal entities and arrangements maintain accounting records and underlying documentation in line with the international standard.
	61% of the 207 066 IBCs are currently struck off; however, the effectiveness of the striking off procedure as an enforcement measure in the Seychelles is questionable. Struck off companies maintain their legal personality and can be restored for a period of 12 years. There is no legal requirement that companies comply with information keeping requirements in order to be restored. Accounting information was found not to be available for EOI when an IBC was struck off.	The Seychelles should ensure that enforcement measures are effective to support the availability of accounting information to the standard in practice.

Practical Implementation of the standard		
	Underlying Factor	Recommendations
	Accounting information has not been provided in 88% of the cases when requested for EOI. In many instances this has been due to issues concerning the availability of such information.	The Seychelles should ensure that accounting information is available in line with the standard in practice.
Rating: Non-Compliant		

A.2.1. General requirements and A.2.2. Underlying documentation

127. The 2015 Report concluded that accounting records and underlying documentation were required to be available in the Seychelles in line with the international standard. Moreover, the report noted that the Seychelles had taken steps to improve the availability of such information in practice, especially in respect of IBCs that maintained their accounting documentation outside the Seychelles. Measures included reporting obligations imposed on IBCs and CSPs to confirm the availability of the records and the broadening of the possibility to strike-off IBCs that failed to comply with reporting requirements. However, since these measures had been introduced recently, the Seychelles was recommended to monitor their implementation.

128. The accounting requirements in the Seychelles derive from a combination of company law and tax law provisions. The various legal regimes and their implementation in practice are summarised below.

Company Law

129. Companies established under the Companies Act (CA) and partnerships incorporated under the Civil Code, 1976 are required to maintain accounting records in line with the standard (ss. 139-144 and Sixth Schedule of CA and s. 32 of the Revenue Administration Act, the RAA). Companies incorporated under the CA are also required to submit audited accounts to the Registrar of Companies (ROC) when filing their annual return (s. 115 CA).

130. Since 2011, IBCs, Limited Partnerships, International Trusts and Foundations are required to keep accounting records in line with the standard.²³ Accounting records must be kept at the registered office of the IBC or

23. Section 174 of IBCA specifically requires IBCs to keep accounting records that: 1) are sufficient to show and explain the IBC's transactions; 2) enable the financial position of the IBC to be determined with reasonable accuracy at any time; and 3) enable the accounts of the IBC to be prepared. Section 2 of the same law

such other place as the directors think fit (s. 175 of the IBCA). If the records are not kept at the registered office, the international entity must inform the registered agent of the address where the records are kept. This communication is also required when the place where records are kept changes. An IBC which fails to comply with this obligation is liable to pay a penalty of USD 100 and an additional penalty fee of USD 25 for each day of non-compliance. The same penalty applies to directors who knowingly fail to comply with this obligation (s. 174(3) and (4)). In case of refusal to provide the information to the FSA, the company (and the director who knowingly permits the contravention) is liable to a penalty fee payable to the FSA of USD 500 and to an additional penalty of USD 50 for each day or part thereof during which the contravention continues (s. 173(3) and (4)).

131. As described in the 2015 Report, a new system to monitor the availability of accounting records for IBCs was set up in 2014, taking into account that in most instances in practice accounting records are kept outside the Seychelles. In particular, the supervisory powers of the FSA were clarified and an obligation was introduced on IBCs to declare that accounting records in accordance with the Seychelles law are kept and can be made available upon request (s. 173(2) of the IBCA). CSPs were also required to monitor compliance of their clients with accounting obligations and periodically report results of this monitoring to the FSA. Finally, the possibility of striking off an IBC was broadened to include failure to pay penalties or to provide information requested by the Seychelles Revenue Commission (SRC).

Tax Law

132. Legal entities and arrangements liable to tax in the Seychelles have to keep accounting records in accordance with the tax law (s. 32 of the RAA and s. 57(4) of the BTA). The SRC 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. Accounting records form the basis of domestic corporate taxation and are required to be provided during each tax audit. The SRC conducted 29 audits in 2015 (from July to December), 293 in 2016, 151 in 2017 and 66 in 2018 (from January to June). The SRC has not encountered serious issues in obtaining the accounting information. If a taxpayer does not furnish a proper set of accounts substantiating its tax

defines “accounting records” as documents relating to assets and liabilities of the company, including receipts and expenditure, sales and purchases and other transactions. The provisions included in the other laws mentioned are almost identical and mirror those contained in the IBCA. See also the LPA, ITA and Foundations Act.

base, the SRC levies tax based on estimate which puts the burden of proof on the taxpayer and according to the Seychelles authorities, this works as an effective deterrent.

133. As of 1 January 2019, as a consequence of the abolition of some preferential tax regimes, all legal entities (including IBCs) and arrangements are now liable to tax and should therefore be subject to the requirements of the Business Tax Act if they carry on a business in the Seychelles. The FSA indicates that as at January 2020 no IBCs had informed it that they are carrying on a business in the Seychelles and hence deriving Seychelles sourced income.

Companies that ceased to exist, struck-off companies and retention period

134. Accounting records, including underlying documentation, must be maintained by the company for at least seven years from the date of completion of the transactions or operations to which they each relate. For domestic companies and other companies subject to the provisions of the Companies Act 1972 (including CSLs and PCCs), there is a requirement for liquidators to keep accounting records for a period of five years (s. 298 of CA) when a company is dissolved. There is no similar requirement for IBCs. IBCs are required to preserve accounting records for at least seven years from the date of completion of the transactions or operations to which they each relate (s. 175, IBCA). Since only the company itself is subject to the requirement to keep the accounting records and there are no requirements for such records to be kept by another person (e.g. registered agent, liquidators, previous directors or officers), when the company ceases to exist, the current law is not in line with the standard. The Seychelles is therefore recommended to ensure that accounting records and underlying documentation are kept for at least 5 years, in cases where the relevant entity or legal arrangement has ceased to exist.

135. Moreover, in circumstances the IBCs are struck off, although the general legal requirement would apply, EOI practice during the review period has shown that accounting information was found not to be available when requested (see below). In addition, considering the possibility of companies being restored for 12 years after being struck off, it is noted a lack of specific legal provisions ensuring the availability of accounting records throughout this period.

Oversight and enforcement of requirements to maintain accounting records

136. The FSA's supervisory activity performed between 2015 and 2018 focused on the requirement for the IBCs to notify the registered agent in the Seychelles that the company was keeping records and on the notification of

the location where such records were kept. There has been no supervisory activity on the way service providers monitored the compliance of their clients (which was part of the recommendation given in the 2015 Report). At the time of the onsite visit, it was noted that the fact of having a law which is generic on the accounting records to be kept, with no further guidance, created uncertainty among the supervised entities on the actual records to be kept. The table below summarises the activity over the review period.

Supervisory activity by the FSA (Accounting records)

	ICSPs inspected	IBCs involved	Non-compliance cases	Sanctions imposed (USD)	Struck-off companies	Struck-off companies restored
2015 (from July)	46	5 321	1 174	142 900	n/a ²⁴	5
2016	53	5 168	701	785 500	1 514	12
2017	n/a	5 739	259	29 450	63	18
2018	22	27 485	112	30 925	11	9

137. In years 2015 and 2016, the Seychelles observed a high level of non-compliance by IBCs with the requirement to submit an annual declaration confirming records are being kept and would be available to the registered entity. This resulted in a number of IBCs being fined or struck off. As of 2017, the Seychelles generally observed an increase in compliance and the number of companies struck-off because of failure to submit returns significantly decreased as a result.

138. However, it remains that there has been no monitoring of the compliance of IBCs with the actual accounting obligations during the entire review period, even though the 2015 Report included a specific recommendation for the Seychelles in this regard.²⁵

24. Please consider that figures for 2016 also cover 2015 in a cumulative way.

25. See paragraph 106 “... 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.”

139. Moreover, there has been no supervision concerning the availability of accounting records for limited partnerships, international trusts and foundations.

140. No checks on the documents actually kept were undertaken until February 2019. At that time, the FSA jointly with the SRC launched a testing programme requiring a sample of 66 IBCs to provide their accounting records as defined under the IBCA for inspection to check whether they were in line with domestic law and the standard. The sample involved a very small number of entities (66 out of 207 066 IBCs, 80 500 of which are considered active, i.e. not struck-off) and only 38 out of 66 IBCs inspected were found in full compliance with the standard and no sanctions were applied in cases of non-compliance. The Seychelles is therefore recommended to strengthen its supervisory and enforcement activity to ensure that all legal entities and arrangements maintain accounting records and underlying documentation in line with the international standard.

141. Moreover, as noted under A.1.1, there is a concern that 61% of the 207 066 IBCs are currently struck off and that the striking off procedure does not seem to represent a deterrent effect against non-compliance. Companies maintain legal personality while struck off and can be restored for 12 years, and this procedure is not uncommon in practice. The Seychelles is recommended to ensure the effectiveness of sanctions in the instances of non-compliance.

Availability of accounting information in EOIR practice

142. Out of 134 instances accounting information has been requested for EOI, the Seychelles was able to provide it in only 15 cases. In particular, accounting records and underlying documentation have not been provided when they were kept outside of the Seychelles and the contact point in the country (i.e. the registered agent) was not able to retrieve the records and provide them to the competent authority. The high level of non-compliance, even with the basic requirement to notify the location of the accounting records, the lack of effectiveness of sanctions imposed to support compliance and the lack of supervision concerning whether the actual accounting records meet the international standard put into question the availability of accounting records in practice. This constitutes a fundamental gap in the implementation of the international standard and has severely impacted the Seychelles' ability to exchange accounting records with its EOI partners. The Seychelles is therefore recommended to ensure that accounting information is available in line with the standard.

A.3. Banking information

Banking information and beneficial ownership information should be available for all account holders.

143. This review finds that the legal framework for the availability of banking information and its practical implementation to be generally in line with the standard. However, the issues identified under Section A.1 in relation to beneficial ownership requirements, both under the legal framework and the implementation in practice also have an impact on the availability of beneficial ownership information in respect of bank accounts.

144. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	The definitions of beneficial owner under AML law applicable to legal entities and legal arrangements do not fully meet the standard. For legal entities, the definition does not capture control other than through an ownership interest. Moreover, the AML Act does not provide for the identification of senior management as a backstop option when other beneficial owners cannot be identified. For legal arrangements, the definition does not provide for the identification of individuals entitled to less than 25% of a legal arrangement's property or capital.	The Seychelles should ensure that the definitions and methods of identification of beneficial owners of legal entities and arrangements are in line with the international standard.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		

Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	The supervision by the Financial Intelligence Unit of the compliance by banks with the requirements for identification of the beneficial owners of bank accounts presents shortcomings. Supervision has not focused on the accurateness of the information kept and financial sanctions upon conviction have not been applied in instances of non-compliance.	The Seychelles should strengthen its system of supervision to ensure the accurateness of beneficial ownership information collected and apply effective sanctions to support the availability of beneficial ownership information in line with the standard.
Rating: Largely Compliant		

A.3.1. Record-keeping requirements

145. The 2015 Report concluded that the Seychelles law requires that banking information be maintained in line with the standard and confirmed its availability in practice. There has been no change since the last review in respect of the key legal obligations or supervisory practices concerning availability of banking information.

Availability of banking information

146. All banks wishing to operate in the Seychelles must first be licensed by the Central Bank of Seychelles (CBS). Currently, there are nine banks licensed in the Seychelles, seven of which are privately owned and are branches or subsidiaries of foreign banks. The remaining two banks are domestic commercial banks and are not part of an international group.

147. Pursuant to the Financial Institutions Act, 2004 (the FIA), every financial institution must maintain in the Seychelles, for a period of at least seven years, such records as are necessary to exhibit, clearly and correctly, the state of its business affairs and to explain its transactions and financial position so as to enable the CBS to determine whether the financial institution is complying with the Act.²⁶ Section 63(n) of FIA provides that a

26. In particular, s. 39 of the FIA requires financial institutions to keep: “(a) customer identification records (during and after termination of the customer relationship); (b) transaction records showing, for each customer, at least on a

financial institution which contravenes or fails to comply with accounts, audit and information requirements pursuant to section 39 commits an offence and upon conviction is liable to a fine of SCR 400 000 (EUR 26 144).

148. The availability of 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. The CBS conducted four limited scope inspections in 2015, one limited and four full scope in 2016 and three full scope inspections in 2017. 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.

Beneficial ownership information on account holders

149. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) be available in respect of accountholders. The AML Act applies to banks in the Seychelles (see A.1.1).

150. Pursuant to the AML Act, banks apply CDD measures in respect of customers, business relationships and transactions, and conduct on-going monitoring of business relationships as prescribed in regulations. As noted under A.1, the Seychelles should ensure that beneficial ownership information of relevant entities and arrangements is kept up to date in practice in accordance with the standard (see Annex 1). Reporting entities must keep all records in relation to CDD for seven years. Financial institutions cannot rely on CDD performed by third party regulated persons (s. 12(4) AML Regulations). However, deficiencies identified in Section A.1.1 with regard to the definition of beneficial owners for legal entities and legal arrangements (partnerships, trusts and foundations) have a direct effect on the availability of relevant banking information. The Seychelles should ensure that the definition and the method for identification of beneficial owners of legal entities and arrangements is brought in line with the international standard.

daily basis, particulars of its transactions with or for the account of that customer, and the balance owing to or by that customer; (c) application and contract documents pertaining to a transaction, (including credit, guarantee and collateral agreements) and a signed written record of the decision approving the transaction; (d) financial records concerning counterparties (including borrowers and guarantors) and any other documentary evidence on which the financial institution relied in approving the transaction; (e) such other documents as the Central Bank may specify by regulation.”

151. Compliance by banks with their AML/CFT requirements is reviewed by the FIU. Fifteen staff work for the FIU, four of which are dedicated to compliance/regulatory functions. The FIU established a round of on-site inspections of AML-obliged persons, and each of the seven branches or subsidiaries of foreign banks established in the Seychelles are inspected every two-three years. The two domestic banks were inspected every three-four years. The following statistics were maintained with the FIU's supervisory work focused on bank's compliance with CDD/BO requirements in years 2017 and 2018.

Supervisory activity by the FIU (BO requirements)						
Year	Bank examinations	Number of account opening files requested	Number of files received	Number of files with deficiencies in the application of CDD, including BO identification	Number of transaction records requested	Number of transaction records received
2017	3	533	460	200	502	373
2018	2	246	246	18	20	20
Total	5	779	706	218	522	393

152. Banks are given a set timeline to provide selected customer files and transactions to be sampled by the supervisors. The Seychelles advise that if the files/documents were not provided in the set timeframe, they are considered as not received for statistical purposes and that, therefore, it may indicate that information was still available but that the files were not being maintained in a manner which is easily retrievable. The number of deficiencies noted in relation to CDD includes lack of identification documents for the accountholder, incorporation documents or deeds and information on beneficial owners or signatories to the account. Statistics for 2015-16 were not available as the FIU did not keep records of inspections focused on CDD/BO requirements prior to 2017. The FIU advised that 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 requirements. The FIU interacts with all banks on a day-to-day basis, providing both advice and, where necessary, corrective recommendations.

153. The issues identified under A.1 about the scope of supervisory activity by the FIU over beneficial ownership requirements also apply in this case since this activity is performed by the same persons, using the same procedures. The Seychelles is therefore recommended to strengthen its supervision programmes and apply effective, proportionate and dissuasive sanctions in cases of non-compliance, so that the availability of beneficial ownership information on bank accounts in line with the standard is ensured in all cases.

Availability of banking information in EOI practice

154. The Seychelles received 119 inquiries for banking information during the review period. In 103 cases, the Seychelles was not able to retrieve the information and send it to the requesting party as they related to IBCs which did not have a bank account in Seychelles. It is commonly the case that IBCs will have a bank account in another jurisdiction, given the strict rules on non-face-to-face on-boarding by banks in the Seychelles. In 11 cases, the information was obtained and sent to the requesting party. In all cases where the bank account was in Seychelles, the competent authority was able to retrieve the information and send it to the requesting party. Therefore, the EOI practice concerning this element seems to confirm the availability of banking records in the Seychelles.

Part B: Access to information

155. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

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).

156. The Seychelles law gives broad access powers to the competent authority to ensure access to the requested information in line with the standard. However, the practice over the review period, which has seen a steep increase in requests received, showed weaknesses in the way these powers have been used.

157. There have been instances during the review period where the Seychelles competent authority’s practice was to serve a notice to produce information only to the registered agent of the legal entity, regardless of whether the registered agent was obliged to keep the information sought. This resulted in the competent authority not always obtaining all information.

158. In instances where information has not been provided by the relevant entity, the competent authority has not pursued to apply sanctions upon conviction provided in the current legislation. The enforcement measures that have been taken generally consisted of requesting the FSA to strike off the relevant company; however, those measures have not been effective to compel the production of the information.

159. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
Determination: The element is in place		
Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	In many cases, the Seychelles competent authority's practice was to serve a notice to produce information only on the registered agent of the legal entity, and not on the legal entity itself, despite the entity generally being the one subject to the obligation to maintain the requested information. This resulted in the competent authority not always obtaining all information.	The Seychelles should ensure that the access powers of its competent authority are used effectively to obtain all information included in an EOI request.
	In instances where information has not been provided, the competent authority has not applied sanctions upon conviction provided in the current legislation, because the procedure to do so is considered too burdensome. Enforcement measures taken generally consisted of requesting the Financial Services Authority to strike off the relevant company; however, those measures have not been effective to compel the production of the information.	The Seychelles should ensure that compulsory powers are applied where appropriate and that they are effective to compel the production of the requested information.
Rating: Partially Compliant		

***B.1.1. Ownership, identity and banking information and
B.1.2. Accounting records***

160. The 2015 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. However, given the very limited experience for EOI purposes at the time, the Seychelles was recommended to monitor the effective use of its access powers.

Accessing information generally

161. Pursuant to section 34(1) of the Revenue Administration Act (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. There are no administrative sanctions in case of failure to furnish the information. However, according to section 47(1) of the RAA, "a person who without reasonable cause fails to comply with a notice under s. 34 is guilty of an offence and on conviction is liable to a fine of no less than SCR 50 000" (EUR 3 268). In addition, the Revenue Commissioner has ample powers to access premises and documents, make copies and seize accounts, documents and records (s. 33 of the RAA).

Accessing information in practice

162. To access ownership, accounting or banking information, the Seychelles authorities use the powers granted by section 34 of the RAA. The information is required to be provided within 14 days from delivery of the request notice to the information holder. Ownership and accounting information in respect of domestic entities is obtained from the ROC or it is also available to the SRC based on the entity tax filing obligations. Banking information is requested from banks when the bank account is in the Seychelles. For offshore entities, the information is usually requested to the registered agents in Seychelles, including for banking information, also when the bank account is in the Seychelles. The SRC can also use information contained in the government integrated data system which allows the SRC to access information kept by other agencies, including database kept by the ROC and the FSA.

163. The Seychelles received 122 EOI request letters over the review period covering 162 taxpayers. In 119 out of the 162 cases, only partial information was obtained and exchanged. Failures to obtain the information were due to: 1) information not being available; 2) refusal of the information holder

to provide the information; 3) information relating to companies (IBCs) that had been struck-off; 4) the service provider (registered agent) having left the jurisdiction.

164. Among the cases where the information was not provided, there are several instances where the service provider contested the legitimacy of the notices for production of information sent by the SRC since they were addressed to him and not to the companies, while the requirement in the law is generally for the companies to keep and provide the information requested. This has impacted the response to requests for legal and beneficial ownership, accounting and banking information. In specific regard to beneficial ownership information, the EOI Unit was not aware of the provisions of the AML legislation which required AML-obliged persons to perform customer due diligence and maintain beneficial ownership information of their customers. As such when beneficial ownership information was not provided by the AML-obliged person, the EOI Unit did not follow up on those cases.

165. In other cases, the service provider contested the request for accounting records, since the SRC asked for audited accounting records while the law in the Seychelles does not specify that the accounting records have to be audited and, therefore, the information was not provided.

166. In 34 cases, the SRC asked the FSA to strike-off the IBCs from which information was not obtained. In two cases the IBCs subsequently complied with the notice to produce information. Out of the 32 remaining cases, 22 IBCs had already been struck-off for other reasons, 3 were represented by a service provider who had left the country, 3 are now in contact with the FSA, and in the remaining 4 cases the IBCs have been struck off following non-compliance. The FSA informed that it is still pursuing to obtain a protection order to ensure that the records of the CSP that has left the Seychelles is maintained in the Seychelles.

167. In addition the issues concerning the availability of information, already addressed under the elements A.1 (legal and beneficial ownership) and A.2 (accounting records), which have arisen in particular when the information was kept outside of the Seychelles, issues with the use of access powers have also been experienced in a number of cases affecting the responses to EOI requests.

168. First, the information is regularly requested from the registered agent, even when it could be directly available through other sources (e.g. banks, in the case of banking information with a Seychelles bank or directly from the companies in the case of accounting and ownership information). When the information has not been provided, neither search and seizure measures nor monetary sanctions have been pursued. The measures adopted (i.e. the striking-off procedure of the non-compliant entities) have not been sufficient to compel the production of the information. As discussed before,

the strike-off procedure does not seem to represent a real deterrent in the Seychelles considering the possibility of companies maintaining legal personality and being subsequently restored. In many cases, the notices were not properly formulated and, as a consequence, the requested person (whether or not the information holder) has refused to comply with it. The Seychelles is therefore recommended to ensure that access powers are used effectively and enforcement measures are taken to compel the production of information (see also B.1.4).

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

169. The RAA 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 (see paragraph 161). 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”. The Seychelles interprets the term “countries” to also cover “dependent territories”. This definition of tax agreement or treaty encompasses all double tax conventions (DTCs), tax information exchange agreements (TIEAs) and multilateral tools such as the Multilateral Convention signed by Seychelles. The SRC Act provides 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.

170. These provisions, together with the EOI practice over the review period, ensure that the domestic powers of the SRC to gather information can be used to answer any incoming EOI requests absent any domestic tax interest.

B.1.4. Effective enforcement provisions to compel the production of information

171. The law in the Seychelles provides for compulsory powers, including monetary penalties and use of search and seizure, which can be applied in cases where the requested information is not provided (sections 47, 48 and 51 of the RAA). Sanctions under the respective acts for not keeping information required under the act apply as well. For instance, businesses not keeping their records can be prosecuted and struck off from the register.

172. However, the EOI practice during the review period has demonstrated that these provisions have not always been applied. Monetary sanctions have never been applied and in some cases striking off procedures have been

initiated (though they have not been concluded yet). The SRC indicated that imposition of sanctions would have been too burdensome for the administration since they can be applied only upon conviction. Search and seizure have also never been applied in the context of EOI.

173. The Seychelles is recommended to ensure that compulsory powers are applied where appropriate and that they are effective to compel the production of the requested information.

B.1.5. Secrecy provisions

174. Section 34 of the RAA states that the 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”. The law further clarifies that these powers to access information can also be used to answer incoming requests received from treaty partners. 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 Attorney General as well as representatives from the bank industry confirmed this interpretation during the on-site visit. Neither lawyers nor notaries could be interviewed during the on-site visit to confirm this; however, this seems to be generally accepted based on the SRC’s practice. No issue in this respect has been encountered by the SRC or reported by peers.

B.2. Notification requirements, 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.

175. The Seychelles law does not provide for notification, post-notification and appeal rights in the case of EOI requests. However, in the case of legal entities and arrangements operating in the offshore sector, the information is always requested from the service providers in Seychelles, even in cases when the requesting party has requested not to notify the taxpayer.

176. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

177. The Seychelles law does not provide for prior notification procedure to inform the taxpayers that they 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 the issuance of a notice without the need of informing first the person concerned that a request for information has been received. There is neither a requirement to notify the person concerned once the information is transmitted to the requesting party (i.e. post-exchange notification). Further, obtaining the requested information and providing it to the requesting jurisdiction cannot be appealed as these do not include tax assessment decision.

178. In practice, information requested by EOI partners regarding legal entities and arrangements operating in the offshore sector in the Seychelles is not available with government agencies. Information would generally be collected from the legal entities and arrangements themselves who are represented in the Seychelles by a registered agent, or from a service provider, which is in many cases the same registered agent but in a different capacity. In the circumstances where the requesting jurisdiction requests the Seychelles not to notify the taxpayer, the Seychelles competent authority advises that it will clarify with the requesting competent authority if it can proceed with collecting the information from non-governmental sources or whether the requesting competent authority would prefer to withdraw its request. No concerns regarding the application of rights and safeguards that apply to persons in the Seychelles were raised by the Seychelles EOI partners in their peer input.

Part C: Exchanging information

179. Sections C.1 to C.5 evaluate the effectiveness of Seychelles’ network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Seychelles’ relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Seychelles’ network of EOI mechanisms respects the rights and safeguards of taxpayers and whether the Seychelles can provide the information requested in a timely manner.

C.1. Exchange of information mechanisms

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

180. 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 DTCs, TIEAs and the Multilateral Convention.

181. The Seychelles has an extensive EOI network covering 151 jurisdictions through 33 DTCs, 13 TIEAs, the Southern African Development Community’s Agreement on Assistance in Tax Matters (SADCA), and the Multilateral Convention. The EOI instruments signed by the Seychelles are in line with the standard, although three do not contain the wording specifically allowing for exchanges in the absence of a domestic tax interest and the exchange of banking information akin to paragraphs 4 and 5 of the Model Art. 26. All bilateral EOI instruments have been ratified by the Seychelles but five of them are still awaiting for ratification from the other parties and are not yet in force.²⁷ The Multilateral Convention entered into force for the Seychelles on 1 October 2015. The Seychelles still needs to ratify the SADCA, signed in 2012. It will provide for a framework for exchange of information

27. DTCs with Ghana, Kuwait, Lesotho, Malawi and Zimbabwe.

with seven jurisdictions not covered by other agreements signed and ratified by the Seychelles.²⁸

182. The interpretation of the concept of foreseeable relevance, including in the case of group requests, is in line with the standard.

183. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	The Seychelles has not ratified the Southern African Development Community's Agreement on Assistance in Tax Matters yet. This agreement, signed in August 2012, provides for exchange of information with 14 jurisdictions, 7 of which are not covered by other EOI instruments signed and ratified by the Seychelles.	The Seychelles should ensure that its exchange of information instruments are brought into force expeditiously.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		
Practical Implementation of the standard		
Rating: Largely Compliant		

Other forms of exchange of information

184. Since 2017, the Seychelles is exchanging automatically financial account information in application of the Common Reporting Standard.

C.1.1. Foreseeably relevant standard

185. 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 interpreted by the Seychelles in a way consistent with the international standard.

28. Angola, Democratic Republic of Congo, Eswatini, Madagascar, Mozambique, Namibia, and Tanzania.

186. In addition, internal guidance is available for the EOI unit, where the concept of foreseeable relevance is explained in line with the standard (SRC EOI Unit Support Manual, 2017).

Clarifications and foreseeable relevance in practice

187. In practice, the Seychelles has rarely requested clarification from the requesting jurisdictions. All 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.

188. It can be concluded that all Seychelles' 151 EOI relationships 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.

Group requests

189. The Seychelles has not received any group requests over the review period. One bulk request was received (i.e. a request covering more than one taxpayer who were individually identified), covering 38 entities.

190. The Seychelles' procedures to deal with group requests are generally similar to those on individual requests. The main difference compared to normal requests relates to the information that must be included in the request, as detailed in the Seychelles' EOI manual, which mirror and makes direct reference to paragraph 5.2 of the Commentary to Art. 26 of the OECD Model Convention.

Provide for exchange of information 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)

191. The 2015 Report concluded that all the Seychelles' EOI agreements allow for exchange of information in line with the international standard.

192. Out of all Seychelles' EOI agreements, only the DTCs with Kuwait, Sri Lanka and Zambia do not contain wording akin to paragraphs 4 and 5 of the OECD Model Article 26. Kuwait and the Seychelles can also exchange information under the Multilateral Convention. The Seychelles has no domestic provisions which could restrict the ability to access all types of information. Nevertheless, bank secrecy or domestic tax interest restriction may exist in

the domestic laws of Seychelles’ treaty partners with whom the Seychelles has a treaty which does not contain wording akin to paragraphs 4 and 5 of the Model Art. 26 (i.e. Sri Lanka and Zambia). Seychelles can nonetheless gather and exchange bank information or information in which it has no domestic tax interest under the two EOI agreements regardless of reciprocity.

193. None of these aspects has ever raised concerns in the EOI practice of the Seychelles.

C.1.8. Signed agreements should be in force and

C.1.9. Be given effect through domestic law

194. All EOI bilateral instruments signed by the Seychelles and the Multilateral Convention are now in force except for the DTCs with Zimbabwe, Lesotho, Malawi, Ghana and Kuwait. The Seychelles has already ratified the agreements and it is waiting for a notification from the other jurisdiction. The Seychelles has been actively contacting them to receive update on their ratification process.

195. The ratification process has been concluded in a timely manner in the Seychelles and in general it does not take more than one year and a half for a treaty to be ratified. An exception refers to the ratification of the SADCA²⁹ agreement, signed by the Seychelles in 2012. This agreement provides for exchange of information with 14 jurisdictions, 7 of which are not covered by other EOI instruments signed and ratified by the Seychelles.³⁰ The Seychelles is recommended to finalise its ratification procedures expeditiously. The Seychelles advised of its intention to submit this agreement to Parliament for approval by the first half of 2020.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	151
In force	141
In line with the standard	141
Not in line with the standard	0
Signed but not in force	10
In line with the standard	10
Not in line with the standard	0

29. The SADCA agreement was signed on 18 August 2012 by Angola, Botswana, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia, Tanzania and Zimbabwe.

30. Angola, Democratic Republic of Congo, Eswatini, Madagascar, Mozambique, Namibia, and Tanzania.

Among which – Bilateral mechanisms (DTCs/TIEAs) not complemented by multilateral or regional mechanisms	10
In force	7
In line with the standard	5
Not in line with the standard	2
Signed but not in force	3
In line with the standard	3
Not in line with the standard	0

196. The RAA and the Seychelles Revenue Commission Act since 2011 state that one of the functions of the Revenue Commission is to answer incoming EOI requests received from treaty partners and that, to do so, the domestic access to information powers granted to the Revenue Commission can be used. These powers can be used notwithstanding any secrecy provisions contained in any other law adopted by the Seychelles, lifting any confidentiality rules contained in other pieces of legislation. The Seychelles has therefore in place the legal and regulatory framework to give effect to its EOI mechanisms.

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

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

197. The Seychelles has an extensive EOI network covering 151 jurisdictions through 33 DTCs, 11 TIEAs, the SADCA and the Multilateral Convention. The increase in the number of EOI partners compared to the last review where there were 104 jurisdictions covered, is mainly due to the new signatories to the Multilateral Convention.

198. During the review period, the Seychelles has neither refused to enter into an EOI relationship nor to amend an existing one to bring it in line with the standard. Moreover, the Seychelles approached several jurisdictions to amend their agreements.³¹ The Seychelles is recommended to continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

31. Georgia for their TIEA, Jersey and Kenya for their DTCs and Malawi for the protocol of their DTC.

199. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.3. Confidentiality

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

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

201. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.3.1. Information received: disclosure, use and safeguards, and C.3.2. Confidentiality of other information

202. The 2015 Report concluded that the Seychelles' legal and regulatory framework and its practices were compliant with the confidentiality aspects of the international standard.

203. All treaties signed by the Seychelles contain provisions aimed at keeping the information received from a treaty partner confidential. Moreover, information cannot be used for purposes other than those expressly mentioned in the incoming request. Further, the Seychelles domestic law contains provisions protecting confidentiality of exchanged information in line with the standard. Employees of SRC are subject to confidentiality provisions and these continue post cessation of employment, pursuant to section 11(2) of SRC Act.

204. Confidentiality obligations are also supported by effective enforcement provisions and practices. The notice to the information holder does not include information which goes beyond a description of the requested information and a reference to the domestic legal basis for the issuance of

the notice (i.e. to section 34 or 33 of the RAA). The taxpayer subject to the request or the information holder is not allowed to inspect the EOI request letter, any accompanying documents, the response letter and any document or information accompanying it.

205. The 2016 Terms of Reference clarified that, although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information authorises the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws. In the period under review the Seychelles reported that there were no instances where the requesting partner sought its consent to utilise the information for non-tax purposes and similarly the Seychelles did not request its partners to use information received for non-tax purposes.

206. There has been no case reported by peers or by the Seychelles authorities where exchanged information was unduly disclosed or made public.

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

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

207. All Seychelles' exchange of information mechanisms ensure that rights and safeguards of taxpayers and third parties are protected in line with the standard. Each of the Seychelles' exchange of information mechanisms 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. 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 (see section B.1.5). There has been no change in this area reported since the 2015 Report.

208. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

209. The 2015 Report concluded that the Seychelles processes and resources appeared adequate to handle the volume of requests expected at that time. However, given its limited EOI experience, the Seychelles was recommended to continue to monitor its processes and resources in particular taking into account 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.

210. The volume of requests increased substantially compared to the previous review period (which covered two and half years),³² moving from four requests to 122 request letters covering 162 taxpayers.³³ However, no changes have occurred in the EOI unit which, for most of the review period, has had one person directly dealing with all the requests, for a period of time joined by a second person. Only recently, a new manager of the unit has been appointed, stabilising the total number of persons in the SRC dealing with EOI requests to two persons, in addition to management. There are plans to further increase resources in the unit.

211. Out of the requests received (162, if counted by the number of taxpayers for which the information was requested), in only 31 cases the Seychelles has been able to provide a full response while in five cases the requests have been declined for valid reasons. In the remaining cases, the Seychelles has been able to provide partial responses.

212. The table of recommendations and rating is as follows:

Legal and Regulatory Framework
This element involves issues of practice. Accordingly, no determination has been made.

32. From 1 July 2012 to 31 December 2014.

33. There had been only one request at the time of the 2013 Phase 2, round 1 Report (covering the review period from 1 July 2009 to 30 June 2012).

Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	The number of incoming requests has increased exponentially during the current review period in comparison with the previous one. However, there has been no correspondent increase in staff and, during part of the review period, only one person was dealing with all incoming requests.	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.
	More than 70% of the EOI requests received during the review period have not been fully replied to by the Seychelles although in all these cases part of the information was provided.	The Seychelles should provide complete responses to its EOI partners in a timely manner.
	During the review period, status updates were not regularly provided by the Seychelles.	The Seychelles is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.
Rating: Partially Compliant		

C.5.1. Timeliness of responses to requests for information

213. During the review period, the most significant partners for incoming requests were France, India, Indonesia, Sweden and Russia. The vast majority of the requests related to legal and beneficial ownership, accounting and banking information for legal entities operating in the offshore sector in the Seychelles (i.e. IBCs).

214. The following table gives an overview of the Seychelles' response times in relation to the requests received during the review period. It indicates whether a full was provided, together with a summary of other relevant factors impacting the effectiveness of Seychelles' practice during the period reviewed.

Statistics on response times

	1 July 2015- 31 December 2015		1 January 2016- 31 December 2016		1 January 2017- 31 December 2017		1 January 2018- 30 June 2018		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received ^a [A+B+C+D+E]	20	12.5	34	21	81	50	27	16.5	162	100
Full response: ≤90 days	3	15	4	11.5	9	11	3	11	19	12
≤180 days (cumulative)	8	40	7	20.5	10	12	5	18.5	30	18.5
≤1 year (cumulative) [A]	8	40	8	23.5	10	12	5	18.5	31	19
>1 year [B]	0	0	0	0	0	0	0	0	0	0
Declined for valid reasons	1	5	4	12	0	0	0	0	5	3
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days)	N/A		N/A		N/A		N/A		N/A	
Requests withdrawn by requesting jurisdiction [C]	1	5	4	12	0	0	0	0	5	3
Failure to obtain and provide some information requested ^b [D]	11	55	22	64.5	71	88	15	55.5	119	73.5
Requests still pending at date of review [E]	0	0	0	0	0	0	7	26	7	4.5

Notes: a. The Seychelles generally counts each letter with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about four persons in one request, the Seychelles counts that as one request. However, for the purpose of this analysis, given the high number of partial replies, which are even more difficult to consider within bulk requests, each taxpayer is counted as one request.

b. Please consider that, while in these cases there was a failure to provide all the information requested, in all of them at least part of the information requested was provided, as reported in the rows on “Partial response”.

215. In general, the Seychelles did not experience any particular problems dealing with EOI requests when the information was kept in the Seychelles (e.g. certain legal ownership information, banking information for bank accounts in the Seychelles). In instances where the information was outside the jurisdiction the success rate of response was lower. In the successful cases, the information was generally collected swiftly and exchanged to the satisfaction of the requesting party.

216. However, most of the requests related to different types of records and in these cases the Seychelles provided only the information which the competent authority was able to collect. Full response was provided in 12% within 90 days and in 18.5% of the cases within 180 days. When adding partial (final) responses, statistics raise to 32% of the cases responded within 90 days and 71.5% within 180 days. The table below provides an overview of the timelines for the provision of partial responses.

	1 July 2015- 31 December 2015		1 January 2016- 31 December 2016		1 January 2017- 31 December 2017		1 January 2018- 30 June 2018		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received ^a	20	12.5	34	21	81	50	27	16.5	162	100
Partial response:										
≤ 90 days	8	40	18	53	21	26	5	18.5	52	32
≤ 180 days (cumulative)	11	55	20	59	70	86.5	15	55.5	116	71.5
≤ 1 year (cumulative)	11	55	21	62	71	87.5	15	55.5	118	73
> 1 year	0	0	1	3	0	0	0	0	1	0.5

Note: a. The Seychelles generally counts each letter with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about four persons in one request, the Seychelles counts that as one request. However, for the purpose of this analysis, given the high number of partial replies, which are even more difficult to consider within bulk requests, each taxpayer is counted as one request.

217. Peer input confirms the issues with receiving information, in particular accounting information and other records kept outside the Seychelles. When information is received, peers mentioned, that it was of good quality.

Status updates and communication with partners

218. During the review period, the Seychelles has provided status updates to the requesting party in limited instances and no statistics were kept in this regard. While some peers noted that an acknowledgement of receipt was often given, peers noted that status update has usually not been provided. The provision of partial information to a certain extent served the same purpose as a status update, and that has been done in some cases. However, some peers indicated that in many instances, it was not clear whether the reply was a final one, or whether the Seychelles competent authority would continue to attempt to pursue other ways to collect the information requested. The Seychelles is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period. Despite the issues raised, peers highlighted they had a very positive relationship with the Seychelles competent authority, who was easy to reach and willing to assist.

C.5.2. Organisational processes and resources

219. The competent authority for the exchange of information in the Seychelles is the Minister of Finance, Trade and Investment. The Minister delegated this function to the Revenue Commissioner. Consequently, all requests for exchange of information are administratively dealt with by the SRC.

Organisation of the competent authority, resources and training

220. The unit dealing with EOI requests currently comprises five persons: the Acting Revenue Commissioner (the Competent Authority), the Director of the SRC Legal Advice, the Manager of Legal Advice and two EOI officers. However, due to internal job rotation, for part of the review period the positions of Manager of Legal Advice and of one EOI officer were vacant and as a result only one person was directly dealing with the EOI requests. The SRC has already recruited an additional officer who will assist with EOI requests. The SRC has also received funding in the 2019 Budget to create an International Tax Unit within the Legal Advice Section fully dedicated to international tax matters such as exchange of information and the implementation of the actions from the Base Erosion and Profit Shifting Project. However, there is no precise timeframe set for this purpose. The unit will be comprised of two officers with the intention to increase the number of staff in the future.

221. Personnel of the SRC has regularly attended 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 as of June 2019.

222. The overall low percentages of full responses, as recorded in the table under C.5.1 above, appear to be mainly due to shortcomings identified under elements A and B of this report. However, processes and, in particular, resources should continue to be monitored taking into account the significant change in the volume of incoming EOI requests, to ensure that both the processes and level of resources are adequate for effective EOI in practice.

Incoming requests

223. When a request is received by the competent authority, it is passed on to the Manager of the EOI Unit who vets the request and either works on it or assigns it to an EOI Officer. The member of the EOI Unit registers the request in the EOI database and reviews it. The EOI database automatically generates reminders sent to the Manager of the EOI Unit. In cases where the legal basis

is missing, the competent authority cannot process the request and would not request additional information. In such case the SRC will inform the requesting party of the reasons why the request is declined. As seen above, this has happened five times in the review period.

224. All requests received in English or French can be processed. If requests are received in other languages, the EOI Manual provides that the competent authority will request the requesting state to provide an English or French translation depending on the legal instrument used.

225. If the requested information is already with the SRC, the request to obtain the information is sent to the Assistant Commissioner for Domestic Tax. The Domestic Tax Division then collects the information under the conditions previously described in section B.1 of this report. If the information is not with the SRC, a notice by the Revenue Commissioner is sent out, under the signature of the member of the EOI Unit handling the request (i.e. by the Director of the Legal Advice or the Manager of Legal Advice). If banking information is requested, the notice is usually sent to the bank although, as seen under B.1, the information is commonly sought from the registered agents of offshore entities. 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.

226. As seen before, the information for IBCs (the most relevant entities in the context of EOI requests in the Seychelles) was usually asked from their registered agents in the country. 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 to provide the requested information.

Verification of the information gathered

227. Once the information has been received, it is checked to ensure its accuracy. All documents are stamped with the “confidential” label and then sent to the treaty partner with the signature of the Revenue Commissioner. Responses to requests are sent by encrypted email or registered mail.

Practical difficulties experienced in obtaining the requested information

228. Issues commonly encountered by the SRC, which prevented them from obtaining and exchanging the information, have been already dealt with in the relevant parts of this report (e.g. A.1, A.2 and B.1) and can be summarised as follows: the information holder (generally the registered agent in the Seychelles) did not provide the information, the company about which the

information was requested had been struck-off the registry, or the registered agent had left the jurisdiction. Cases where the registered agents did not provide the information included instances where, according to the registered agent, the request was wrongly formulated by the SRC.

229. As a consequence of these difficulties, the majority of the EOI requests received during the review period have not been fully replied to by the Seychelles although in all these cases at least part of the information was provided. The Seychelles is recommended to ensure that requests for information are answered in an effective way in all cases and that all information requested is obtained and exchanged.

Outgoing requests

230. The Seychelles sent three requests over the review period. The process of sending requests is described in an exhaustive manner in the EOI Unit Support Manual and steps to be taken are detailed in the EOI Operating Procedure Manual. The Seychelles uses the OECD template to send requests out. All requests for information to a foreign tax administration are to be addressed to the office of the competent authority, marked for the attention of the competent authority and then analysed by the Legal Advice Section. Once it has been ascertained that the request can be made, the EOI Unit Manager creates a new record of the request on the EOI database system. The procedure provides for the insertion of the details of the case (i.e. new serial number, date of receipt from SRC Department, contact person in SRC Department, requested state, the person or entity for which the information is requested and the type of information requested). The Unit Support Manual includes a detailed checklist of the information to be included in the final request which allows it to be concluded that outgoing requests are prepared to the standard. No requests for clarifications have been received for the three requests sent. Peers raised no issues concerning the quality of the Seychelles' outgoing requests.

C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI

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

Annex 1: List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1:** Although the requirement under the AML law would be able to capture the beneficial owner under a nominee arrangement, the Seychelles should nonetheless ensure that nominees and nominators are identified and recorded as per the standard, given the fact that nominees are very often used in Seychelles, in particular for IBCs (see paragraph 51).
- **Elements A.1 and A.3:** The Seychelles should ensure that beneficial ownership information of IBCs and other relevant entities and arrangements is kept up to date in practice in accordance with the standard (see paragraphs 63, 76 and 150).
- **Element A.1:** The Seychelles is recommended to monitor that all the bearer shares have been fully cancelled if they have not been converted into nominative shares by 1 July 2014, as required by law (see paragraph 92).
- **Element C.2:** The Seychelles is recommended to continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 198).

Annex 2: List of the Seychelles' EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI PARTNER	Type of agreement	Signature	Entry into force
1	Bahrain	DTC	24-Apr-10	08-Feb-12
2	Barbados	DTC	19-Oct-07	28-Feb-08
3	Belgium	DTC	27-Apr-06	10-Sep-15
4	Bermuda	DTC	24-May-12	19-Jul-13
5	Botswana	DTC	26-Aug-04	22-Jun-05
6	Cayman Islands	TIEA	12-Feb-14	22-Sep-16
7	China (People's Republic of)	DTC	26-Aug-99	17-Jan-02
8	Cyprus ³⁴	DTC	28-Oct-06	02-Nov-06
9	Denmark	TIEA	30-Mar-11	14-May-12
10	Ethiopia	DTC	14-Jul-12	01-Jan-14
11	Faroe Islands	TIEA	30-Mar-11	14-May-12
12	Finland	TIEA	30-Mar-11	08-Nov-12
13	Georgia	TIEA	29-Oct-15	13-Sept-16
14	Ghana	DTC	20 May-14	-

34. 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.

	EOI PARTNER	Type of agreement	Signature	Entry into force
15	Greenland	TIEA	30-Mar-11	11-Jan-14
16	Guernsey	DTC TIEA TIEA Protocol	27-Jan-14 08-Sept-11 12-Sept-16	06-Oct-16 22-Jul-12 14-Jun-17
17	Iceland	TIEA	30-Mar-11	19-Oct-13
18	India	TIEA	26-Aug-15	28-Jun-16
19	Indonesia	DTC	27-Sept-99	16-May-00
20	Isle of Man	DTC	28-Mar-13	16-Dec-13
21	Jersey	DTC	28-Jul-15	05-Jan-17
22	Kenya	DTC	17-Mar-14	09-Apr-15
23	Kuwait	DTC	05-Feb-08	-
24	Lesotho	DTC	05-Sep-11	-
25	Luxembourg	DTC	01-Jun-12	19-Aug-13
26	Malawi	DTC	06-Sep-12	-
27	Malaysia	DTC	03-Dec-03	10-Jul-06
28	Mauritius	DTC	11-Mar-05	22-Jun-05
29	Monaco	DTC	04-Jan-10	01-Jan-13
30	Netherlands	TIEA	04-Aug-10	01-Sep-12
31	Norway	TIEA	30-Mar-11	11-Aug-12
32	Oman	DTC	12-Sep-03	20-Jan-04
33	Qatar	DTC	01-Jul-06	10-Apr-07
34	San Marino	DTC	28-Sep-12	30-May-13
35	Singapore	DTC	09-Jul-14	18-Dec-15
36	South Africa	DTC	26-Oct-98	27-Jul-02
37	Sri Lanka	DTC	23-Sept-11	26-Mar-14
38	Swaziland	DTC	18-Oct-12	11-Feb-15
39	Sweden	TIEA	30-Mar-11	06-Oct-13
40	Switzerland	TIEA	26-May-14	10-Sept-15
41	Thailand	DTC	26-April-01	14-Apr-06
42	United Arab Emirates	DTC	18-Sept-06	23-Apr-06
43	Viet Nam	DTC	04-Oct-05	07-Jul-06
44	Zambia	DTC	07-Dec-10	04-Jun-12
45	Zimbabwe	DTC	06-Aug-02	-

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).³⁵ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by the Seychelles on 24 February 2015 and entered into force on 1 October 2015 in Seychelles. The Seychelles can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius,

35. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Morocco, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Armenia, Benin, Bosnia and Herzegovina, Burkina Faso, Cabo Verde, Gabon, Kenya, Liberia, Mauritania, Mongolia, Montenegro, North Macedonia (entry into force on 1 January 2020), Oman, Paraguay, Philippines, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Southern African Development Community’s Agreement on Assistance in Tax Matters (SADCA)

The Southern African Development Community’s Agreement on Assistance in Tax Matters was signed on 18 August 2012 by Angola, Botswana, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe. It provides for a framework exchange of information automatically, spontaneously or upon request between the relevant competent authorities. This agreement has not been ratified by the Seychelles yet.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and the 2016-21 Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 3 January 2020, Seychelles' EOIR practice in respect of EOI requests made and received during the three year period from 1 July 2015 to 30 June 2018, Seychelles' responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Seychelles' authorities during the on-site visit that took place on 2-7 July 2019.

List of laws, regulations and other materials received

Commercial laws

Regulatory and anti-money laundering/anti-terrorist financing laws

Tax Laws

Authorities interviewed during on-site visit

Seychelles Revenue Commission

Department of Finance

Department of Foreign Affairs

Registration Division

Attorney General

Financial Services Authority

Central Bank of Seychelles

Financial Intelligence Unit

Bar Association

Attorney General
 Registrar of Companies
 Bankers association
 Representatives from notaries
 Representatives from service providers
 Association of Accountants

Current and previous review(s)

The Seychelles was evaluated in Round 1 across 4 reports: the 2011 Phase 1 report; the 2012 Supplementary Phase 1 report; the 2013 Phase 2 report; and the 2015 Supplementary Phase 2 Report. The Round 1 reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews.

Summary of reviews

Review	Assessment team	Period under Review	Legal Framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Jose Ivan Cavalcanti, Brazil; Mr Philippe Cahanin, France, and Mr Rémi Verneau from the Global Forum Secretariat	n.a.	July 2010	January 2011
Round 1 Supplementary to Phase 1	Ms Ivonete Souza, Brazil; Mr Philippe Cahanin, France, and Mr Rémi Verneau from the Global Forum Secretariat	n.a.	April 2012	June 2012
Round 1 Phase 2	Ms Ivonete Souza, Brazil; Mr Philippe Cahanin, France; Mr Rémi Verneau and Mr Radovan Zidek from the Global Forum Secretariat	1 July 2009- 30 June 2012	August 2013	November 2013
Round 1 Supplementary Phase 2	Ms Ivonete Souza, Brazil; Mr Thierry Glajean, France, and Mr Radovan Zidek from the Global Forum Secretariat	1 July 2012- 31 December 2014	17 August 2015	October 2015
Round 2	Mr Antonio Morales Martín, Spain; Ms Jasmine Wade, Antigua and Barbuda; Mr Francesco Bungaro and Ms Renata Teixeira from the Global Forum Secretariat	1 July 2015- 30 June 2018	January 2020	March 2020

Annex 4: The Seychelles’ response to the review report³⁶

The Government of Seychelles expresses its gratitude to the assessment team, the Global Forum secretariat and all members of the Peer Review Group for their guidance and assistance in preparing and finalising our report.

Our Authorities acknowledge the main deficiencies which exist currently in the regulatory framework and process of exchange of information on request. The country remains committed towards implementing the necessary reforms and putting in place the necessary structures to ensure these deficiencies are addressed in the shortest period possible. Given the importance attributed towards these reforms, we intend to implement these by the end of March 2020.

One of the areas where a lot of effort has been put in terms of reforms is in the definition of Beneficial Ownership. This definition has been revised through the new Beneficial Ownership Act assented by the President on 5th March 2020. The new definition set out in the Act is in accordance with the Financial Action Task Force (FATF) and OECD standards. The new Act requires all legal persons and legal arrangements to maintain a register of beneficial owners, at the principal place of business of its resident agent.

The law enforcement agencies and any competent authorities will be entitled to request the Beneficial Ownership information from the resident agent. The Financial Intelligence Unit will maintain the Seychelles Beneficial Ownership database. The Act has given the power to the Minister to make regulations to specify the minimum threshold for identifying the beneficial owners of legal persons and this shall be 10% of ownership. The Act also introduces a penalty in the event the resident agent fails to maintain a beneficial ownership register and intentionally provides false or misleading information.

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

Another practice which we acknowledge requires significant improvement is in terms of the period of strike-off which has been recognised to be a challenge in terms of its implementation and effectiveness. Given our commitments towards facilitating the exchange of information, we intend to put forward the necessary amendments to the legislations by the end of the first quarter of 2020.

The availability of accounting information for companies operating in the offshore sector has been another deficiency which has been outlined. In line with the internationally accepted standards of best practices, the current legislation requires the International Business Companies (IBCs) to keep their accounting information, either in, or outside of Seychelles, and in cases where it is kept outside of Seychelles, the address has to be known by the registered agent in Seychelles. Despite the legislative framework being in line with the standards, in practice, the availability of accounting information remains a concern. This is especially true for cases where accounting information of struck-off IBCs are maintained outside of Seychelles, and there is no obligation on IBCs to make available such information to their Registered Agent or Supervisory Authority in Seychelles. Hence, the Government intends to propose amendments to the current legislations and make it a requirement for all IBCs to keep accounting information in Seychelles, through their respective registered agent. In addition, the Government would ensure that the law is amended such that accounting records including banking information are maintained for a period of five years in cases where an IBC ceases to exist. Compared to the assessed period, the Financial Services Authority has been successful in the past 12 months in taking over the documents on the the IBCs in a case where the CSP ceased to exist. The necessary is also being done by the Authority to take over the documents for another two CSPs which have ceased to exist. The necessary legislative amendments for the accounting information are expected to be done by the end of March 2020.

A new National Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Committee was set up in February 2019 and its framework has been included in the new Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, along with a number of technical sub-committees. One of the sub-committees which has been set up is specifically targeted at Exchange of Information. This will ensure better domestic coordination and collaboration between the Seychelles Revenue Commission (being the competent authority for Exchange of Information for Tax Purposes) and all relevant domestic competent authorities.

In order to support the continued increases in exchange of information requests, the Seychelles Revenue Commission has created an international tax unit where one of its functions will be the exchange of information. The Unit is to be strengthened by recruiting three staff in addition to the three

who are already in post. The effectiveness of the current team can be confirmed through the ability to submit all beneficial ownership requests received during the second half of 2019 within the 90 days period. The National AML/CFT committee will continue to monitor its progress and effectiveness.

The Seychelles Government is satisfied with the rating provided by its peers and the Global Forum secretariat. As highlighted, it remains committed towards implementing the necessary reforms, putting in place the necessary structures and allocating sufficient resources towards the requests for exchange of information. We believe that this commitment will allow us to request a supplementary review by early next year where the positive results of these reforms will be visible.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request SEYCHELLES 2020 (Second Round)**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This report contains the 2020 Peer Review Report on the Exchange of Information on Request of Seychelles.



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