



Financial Services Authority Newsletter

Mission: To jointly create a conducive environment for the growth and development of the financial services industry of Seychelles, in alignment with the national economic development strategy and in strict compliance with local and international regulatory norms and best practices.

CEO's Foreword



Welcome to the final edition of the Financial Services Authority newsletter for the year 2015. In retrospect, 2015 has been a year of significant achievements for the Authority, the highlight of which is that Seychelles has received an overall rating of largely compliant as a result of the supplementary phase 2 review that was conducted by the Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD).

I would like to take this opportunity to thank all stakeholders and especially the staff of the FSA who worked hard during the last few years to improve our rating. However, we must not be complacent but should continue keeping the momentum of ensuring compliance to the laws we administer and to international standards and best practices.

This edition of the FSA newsletter introduces the Financial Services Authority Appeals Board. Any person aggrieved by a decision of the FSA will be given the opportunity to make an appeal against the decision. This endeavor is an important step towards ensuring that potentially contentious decisions taken by the FSA are handled fairly. It is our hope that this mechanism will be used responsibly.

In this final trimester of 2015, we have laid the groundwork for projects that will be undertaken as of next year. This includes a review of our supervisory framework for the regulation of insurance and pensions. In addition, we shall also be reviewing the Mutual Funds and Hedge Fund Act, 2008 and the Securities Act. Legislations to replace the existing International Business Company Act, the Companies (Special License) Act, International Trusts Act and the International Corporate Service Providers Act are near completion and will be finalized in 2016. As always, we trust in the full cooperation of all stakeholders, especially the Industry.

On behalf of the staff of the FSA, I would like to thank everyone for their support and cooperation during this year.

Happy New Year!

Ms. Jennifer Morel
Chief Executive Officer

Seychelles receives new OECD rating

In late 2013, the Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD) conducted a phase 2 review on Seychelles in which an overall non-compliant rating was given. The rating was based on two main areas of concern relating to the availability of ownership and accounting information.

Further to the Global Forum recommendations, the FSA has introduced appropriate mechanisms to ensure that ownership and accounting information is available in Seychelles. These measures are reflected through amendments in the relevant legislation as well as increased supervision of entities under the administration of the FSA.

This year, a supplementary review was conducted which revised the Seychelles rating for each of the 10 essential elements as well as the overall rating. The Seychelles is now considered to be largely compliant with the Standard.

Overview of steps taken

To achieve the largely compliant status, the Financial Services Authority has undertaken amendments that have served to ensure that the following scopes and objectives were achieved:

- i. there are effective enforcement provisions to ensure that up-to-date ownership information in relation to IBCs is available;
- ii. reliable accounting records for all relevant entities are available at all times.
- iii. there are in place effective sanctions that ensure records for IBCs are available and that same is exercised;
- iv. there is in place an effective system of monitoring to ensure compliance to record keeping requirements; and
- v. the regulated activities carried out by the licensees does not damage the good repute of Seychelles

An overview of some of the steps undertaken is provided below:

1. Amendments to the International Business Companies Act

On December 16th, 2013, the Seychelles amended the International Business Companies Act, 1994. Matters addressed included clauses which abolished bearer shares and increased the penalty in instances of non-compliance with the accounting record keeping requirement by the IBC. International Business Companies are required to submit an Annual Declaration which states that the IBC is keeping accounting records in accordance with the Act and that those records can be made available through its registered agent. The share register is to be kept solely at the registered office in Seychelles and is to be complete and updated. The penalty in instances of non-compliance with the maintenance of share register requirement has been increased. The grounds for striking off has been extended to include matters such as failure to comply with a request for information from the Seychelles Revenue Commission and the failure to pay any penalty imposed by the Registrar under the Act.

2. Conduct of Focused on-site inspections

The FSA, in line with its statutory, functions and regulatory powers conducted Focused Compliance Inspections at the registered office of all 68 of its licensed International

Corporate Service Providers ("ICSP").

The Focused On-site Inspections concentrated on the availability of ownership information relating to the IBC whereby the FSA reviewed the level of compliance with certain record keeping requirements. This includes the accounting record keeping requirement of IBCs, the maintenance of the share register and the directors register at the registered office of the IBC. The FSA also reviewed the process being undertaken by IBCs which have issued bearer shares to ensure compliance with the amendments and verified that no IBC are issuing any bearer shares.

3. Other measures

The FSA reviewed its applications of enforcement actions such as penalties imposed on licensees whereby penalty fees were applied immediately upon detection of non-compliance. The FSA has also undertaken monitoring of promotional advertisements relating to any financial services business to ensure that all information provided is accurate and in compliance with established laws and policies, does not damage the good repute of the Seychelles and contains a fair and accurate indication of the services that it provides.

In order to improve the availability of ownership and accounting information, Seychelles has introduced, in March 2015, new obligations through the Code for ICSPs to require ICSPs to monitor compliance by specified entities (IBCs, etc.) and foundations, with certain "record-keeping requirements" and inform the FSA of any "continued non-compliance" by the specified entity or foundation. The FSA also issued Guidelines in relation to the practical implementation of the new Annual Report requirement for IBCs.

The FSA seeks consultants for the development of risk based Supervisory frameworks

The Financial Services Authority has sought consultants to undertake projects to develop a risk based Supervisory framework for pensions and insurance respectively. The two projects will be funded through grant funds allocated from the Middle Income Country Technical Assistance Fund administered by the African Development Bank.

The development of the risk based supervisory framework for pensions will be undertaken over 13 months. Expected deliverables for the assignment include to determine the current risks to which the Seychelles Pensions Fund may be exposed, the establishment of risk management processes and procedures for pensions supervision, the formulation of risk-based supervisory standards and procedures including risk measures and benchmarks, and relevant reporting requirements for pension plans. The consultant will also be responsible for undertaking a training-needs assessment and to design a training program for FSA staff to strengthen their capacity in risk management, monitoring, and industry surveillance.

The development of the risk based supervisory framework for insurance will be undertaken over 24 months. The goals of the project are to review the current legislative framework for Insurance in relation to the IAIS principles, to improve the procedures for the processing of license applications, to improve the risk-based supervisory approach in terms of supervision framework, procedures, reporting and capacity building and to strengthen the legal, regulatory, and supervisory framework for insurance.

The FSA establishes Appeals Board

The Financial Services Authority appeals board was constituted through the enactment of the Financial Services (Appeals Board) Regulations, 2014. The Board consists of five members appointed by the Minister for Finance Trade and The Blue Economy, Mr. Jean -Paul Adam with effect from the 1st August 2015. They are Mr. Anthony Derjacques, Ms. Aurora Arcambal, Mr. Francis Lebon and Mr. Jean Preira. The Chairperson of the board is Mr. Frank Ally. Members will serve on the appeals board for a period of three years. Ms. Estelle Peron has been appointed as secretary of the FSA Appeals Board in accordance with Regulation 6(1) of the Financial Services (Appeals Board) Regulations 2014.

The Regulations allows any person who is aggrieved by the decision of the Authority to make an appeal to the Board within 90 days of the decision being made. The appeal must be in the prescribed form as per the regulations and must be delivered to the Secretary of the Appeals Board.

The Board, upon hearing the appeal may affirm the decision of the Authority, vary the decision or set aside the decision and remit the matter concerned for reconsideration by the Authority in accordance with such direction as the Appeals Board considers fit.

Educational Corner : What is the Global Forum on Transparency of Information for Tax Purposes?

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

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

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

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 considers information, while Phase 2 reviews look at the practical implementation of that framework. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes. All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports. The Global Forum has now completed 215 peer reviews and assigned compliance ratings to 86 jurisdictions that have undergone Phase 2 reviews.

Guy Morel Institute introduces the Introductory Certificate in Seychelles Financial Services

As from January 2016, the Guy Morel Institute (GMI) will introduce the Introductory Certificate in Seychelles Financial Services. This course will replace the Foundations in Offshore course. The Course is targeted at individuals who are currently working in the financial services sector or aspire to pursue a career in this sector. It is also open to current international Financial Services Practitioners who wish to refresh their knowledge in the international financial services industry.

The course content has been designed to provide its participants with a broad understanding and knowledge of the Seychelles International Financial Services and also an appreciation of practical on-the-job skills that will be required to launch a career in the financial services sector. Practitioners will benefit from an update of the changes that have taken place in the global international financial services industry in general and in the Seychelles International financial services in particular.

This foundation course consists of four modules namely the Seychelles International Financial Services Business Environment, the International Financial Services Products and Services, the Regulatory framework and Working in the Financial Service Industry.

Training for the course will be conducted over 6 1/2 days including a 2 hour written exam. The pass mark is set at 70%. Participants enrolled on the course will receive a certificate of achievement upon successful completion.

Interested persons may contact the Guy Morel Institute for further information.

FSA hosts FATCA and CRS training

The Financial Services Authority, in its mission to promote capacity building within the financial services industry, hosted a United States Foreign Account Taxpayer Compliance Act (FATCA) and Common Reporting Standards (CRS) training targeted mainly towards International Corporate Service Providers, in collaboration with the Ministry of Finance, Trade and the Blue Economy. The training session was held from the 9th to the 11th December 2015 at the Savoy Resort and Spa and was led by Mr. RC Terblanche from South Africa.

During the session, attendees received an in depth overview of the primary differences between FATCA and CRS, different terminology utilized by the two standards as well as practical applications. The training was meant to assist attendees to effectively apply the standards.