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Aspiring to a dynamic and modern business environment

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Historically, the Seychelles economy was based on agriculture and fishing. However, over the past 15 years, with the enactment of a number of business and financial legislation, Seychelles has emerged as a competitive and forward-looking offshore business centre and also attracted significant Foreign Direct Investment (FDI), especially in the tourism and real-estate industry.

More recently, competition laws have been enacted to promote a more competitive and fairer business environment; and a foundation law has been passed providing further tax planning and wealth management options to the offshore sector.

Offshore business centre

The following legislations laid the foundation for the development of Seychelles as an international business centre:

- (i) the Seychelles International Business Authority Act 1994, creating the Seychelles International Business Authority (Siba);
- (ii) the International Business Companies Act 1994, providing for International Business Companies (IBC); and
- (iii) the International Trust Act 1994.

Siba is the regulator of offshore business and also functions as the registry of International Business Companies (IBCs). It also regulates the professional firms engaged in the formation and administration of IBCs, other offshore business entities, and international trusts.

The IBC owes its popularity to its tax-exempt status and the identity protection afforded by law to its members and directors, and also the speed with which it may be incorporated (within 24 hours). The IBC is used increasingly in tax mitigation structures and,

together with the international trust, as a vehicle for wealth protection.

DTAA and Companies with Special Licence (CSL)

The Seychelles has entered into double taxation avoidance agreements (DTAAs) with several states, including Indonesia and China. The tax-resident CSL, created under the Companies (Special Licences) Act 2003, is the ideal vehicle to enable investors to take advantage of the tax relief under these DTAAs.

The CSLs are liable to Seychelles business tax at a flat rate of 1.5% on their taxable worldwide income, and are popular as holding companies for business concerns in Indonesia and China.

Foundations

The Foundations Act 2009 provides for the creation of foundations similar in nature to those found in continental Europe used for wealth management. Essentially, the foundation is a separate legal entity, but is akin to a trust in that it may have a specified purpose to fulfil, and has beneficiaries, whether identified or members of a class.

However, the foundation's key advantage over a trust is that it may directly own property. Instead of trustees, it has a council whose role is to manage the foundation according to its stated objects. The law also provides for the appointment of protectors whose key role will be to oversee the management of the foundation, with wide ranging powers to examine any of the foundation's records and be kept up to date with the foundation's activities.

It is hoped that the foundation would be attractive to markets in the civil law jurisdictions of continental Europe that may not be so comfortable with the concept of trusts. Foundations benefit from complete exemption from Seychelles taxes.

Financial services

The Securities Act 2007 and the Mutual Fund and Hedge Fund Act 2008 have laid down the legal framework for Seychelles to tap into the equities and securities markets, including rigorous regulatory control of such activities.

Although the development of this area of investment is still in its infancy, it has generated much interest from investment professionals both locally and abroad. Securities and funds investments are expected to add value to the existing Seychelles offshore products. It is hoped that the process of privatisation of state-owned or controlled concerns in the country will bring a sense of urgency to the setting up of a Seychelles stock market.

Foreign Direct Investment (FDI)

The Government of Seychelles has been encouraging foreign investment into the country and in particular in the tourism industry. The government has established the Seychelles Investment Bureau as a first port of call and guide to potential investors.

The Tourism (Incentives) Act 2003 provided for substantial tax concessions to investors and has been decisive in attracting a number of international hotel chains and developers of the Integrated Resorts Scheme (IRS) to Seychelles over recent years.

The IRS schemes target high net-worth individuals from Europe and the Middle East seeking a second or holiday home. These investments have created substantial legal work for local lawyers, most notably in real estate and project financing.

The purchase of the luxury villas or apartments in the IRS is now the surest way for foreigners to acquire residential property in Seychelles, which is otherwise permitted sparingly by the government. IRS residence purchasers and their families are entitled to Seychelles residency on fulfillment of certain formalities.

Fair competition laws

With a view to increasing open-market competition and hence economic activity in Seychelles, fair competition laws were enacted late in 2009. The Fair Competition Act 2009 provides for the principles and rules to ensure fair competition in the business environment through the prohibition or restriction of certain business practices.

In particular, the act prohibits the abuse of a dominant position, agreements which prevent or restrict competition, re-sale price maintenance, and price fixing. It also controls mergers and acquisitions.

The Fair Trading Commission Act 2009 was also enacted to create the Fair Trading Commission, which is vested with investigative and other enforcement powers as well as an educational and advisory role in relation to fair competition laws and practices.

Recently constituted, the Fair Trading Commission has been engaged in sensitising the public, government departments and the business community of the impact of the new laws.

Financial and corporate

Recommended firms

Tier 1

Law Chambers of Francis Chang-Sam
Law Chambers of Kieran Bhogilal Shah
Pardiwalla Twomey Lablache

Tier 2

Chetty & Hoareau Chambers
Frank Ally
Intershore Chambers

With just 40 registered lawyers, and reportedly only 20 of them practising, it seems an understatement to describe Seychelles' legal community as tight-knit. There is little room for strategic alliances, specialist firms, or any other type of firm for that matter, with most practices being independent sole-practitioners who dabble in corporate and financial law along with the non-commercial areas.

The majority of mandates come from the economy's three pillars: tourism, fishing and the offshore sector. The government's push to upgrade hotels through its Integrated Resort Schemes has brought in foreign investors with their M&A mandates, with the Four Seasons and Raffles being the latest projects to take off. But inbound investment in this sector is still low, and lawyers are pinning their hopes on the stabilising currency for its recovery.

The fishing industry has been battered by piracy recently, but offshore work shows no signs of slowing down. Many lawyers comple-

ment their legal work in this area by setting up spinoff companies licensed to establish and maintain non-residents companies.

In banking work there has been advice to foreign investment banks on the local regulatory regime, and debt restructures necessitated by fluctuating exchange rates. Lawyers are thankful the latest shift has been downwards, generating increased confidence and activity among borrowers.

Law Chambers of Francis Chang-Sam

The near-unanimous market opinion is that Francis Chang-Sam is the country's best lawyer. The former Attorney General is described as "a very very smart lawyer" by one competitor and is known for representing high-profile clients. Chang-Sam runs a corporate and commercial practice which is well connected in banking circles and has a strong track-record within the tourism sector. Although he is not an offshore practitioner *per se*, Chang-Sam does give regulatory advice to non-resident companies.

Earlier this year he acted in ICICI Bank Singapore's cross-border loan to FBS Indonesian Group.

Leading lawyers

Francis Chang-Sam

Law Chambers of Kieran Bhogilal Shah

Of the country's generalist practices, Kieran Shah's stands out for its focus on corporate and banking work. "He has great experience in these areas," says one rival, adding: "The majority of financial institutions in Seychelles have been his client."

Last February he acted as local counsel in International Finance Corporation's \$30 million financing of Borets Group. The loan included Seychellois securities and involved law firms in a number of jurisdictions.

Leading lawyers

Kieran Shah

Pardiwalla Twomey Lablache

Pardiwalla Twomey Lablache is the country's biggest, and one of its most prominent, practices. Under the guidance of former Attorney General Pesi Pardiwalla and the highly regarded Conrad Lablache, its capabilities have become well known. "If I had a conflict I would feel comfortable referring to them," says one peer. Also well known is that it attracts Seychelles' biggest-ticket clients, with a number of competitors noting the firm's

work for the local subsidiaries of Barclays Bank and Cable & Wireless.

Over the past 12 months the firm has acted on the lender side of two cross-border loans. The first was in relation to International Finance Corporation's \$30 million loan to Borets Group, and the other was ICICI Bank Singapore's April 2010 loan to FBS Indonesian Group. These deals saw the firm work across from Freshfields Bruckhaus Deringer's London office and Latham & Watkins in Hong Kong. Credit Suisse and UBS have also mandated the firm for advice on securities and collective investment issues.

On the corporate side the firm acted on one of the year's biggest domestic transactions, advising onshore company JFA Holdings on the sale of its stake in MAIIA resorts to Qatari Diar Group. The €13 million sale closed in December 2009.

Leading lawyers

Pesi Pardiwalla

Chetty Hoareau Chambers

In a traditional market, Chetty Hoareau Chambers is the new breed of lawyers. The new firm has a young leadership group and is described as "promising" by its peers. Under the guidance of Prescille Chetty and Basil Hoareau, the generalist firm aims to get an edge over the inertia of its well-established competitors through its diligent and proactive approach.

Intershore Chambers

Phillipe Boullè is one of the market's most prominent and respected lawyers, with rivals referring work to him, and clients saying his firm Intershore Chambers is quick and accessible. "They are service oriented and if they do not have an answer they get back to you with something concrete within a reasonable time," says one.

With 30 years experience, Boullè has established an impressive client-base which includes financial institutions such as Barclays Bank (Seychelles) and La Prudence Mauricienne Assurances. The firm is also at the forefront of work generated by the tourism sector, acting for Four Seasons Resort Seychelles, European Hotel & Resorts and Kingdom Hotels.

Leading lawyers

Phillipe Boullè

Other notable firms

A controversial entrant to the market is Appleby. The global off-shore firm opened its Seychelles office last August to a mixed reception from the local legal community. Some

commend the arrival of an international name, while others are quick to point out the firm's leaders are not Seychelles qualified and that it will not play a role in the local economy. While competitors' opinion is divided, clients are more certain, with one describing it as "knowledgeable and helpful" and another as "fast and professional".

Since its launch the Seychelles office has advised on the local aspects of a number of global transactions. These include advice to China Investment Corporation on the restructuring of a \$1.9 billion high-yield financing granted to Indonesian miner Bumi Resources, and Russia's VTB Capital on its \$25 million financing of the Tas Group through an SPV.