

Cook Islands

RISK & COMPLIANCE REPORT

DATE: November 2018

Executive Summary - Cook Islands

Sanctions:	None
FATF list of AML Deficient Countries	No
Higher Risk Areas:	Not on EU White list equivalent jurisdictions Offshore Finance Centre
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Corruption Index (Transparency International & W.G.I.)
Major Investment Areas: Agriculture - products: copra, citrus, pineapples, tomatoes, beans, pawpaws, bananas, yams, taro, coffee; pigs, poultry Industries: fruit processing, tourism, fishing, clothing, handicrafts Exports - commodities: copra, papayas, fresh and canned citrus fruit, coffee; fish; pearls and pearl shells; clothing Imports - commodities: foodstuffs, textiles, fuels, timber, capital goods	
Investment Restrictions: Information unavailable	

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Section 1 - Background

Named after Captain COOK, who sighted them in 1770, the islands became a British protectorate in 1888. By 1900, administrative control was transferred to New Zealand; in 1965, residents chose self-government in free association with New Zealand. The emigration of skilled workers to New Zealand and government deficits are continuing problems.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

The Cook Islands is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation follow-up Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Cook Islands was undertaken in 2018. According to that Evaluation, Cook Islands was deemed Compliant for 5 and Largely Compliant for 33 of the FATF 40 Recommendations. It was deemed Highly Effective for 0 and Substantially Effective for 5 of the Effectiveness & Technical Compliance ratings..

Key Findings from latest Mutual Evaluation Report (2018):

The Cook Islands has established a well-functioning framework to conduct risk assessments, translate the findings into legislative and policy decisions and raise awareness across agencies and the private sector.

Abuse of legal persons and arrangements remains the key money laundering / terrorist financing (ML/TF) vulnerability for the Cook Islands and is appropriately a primary area of focus for the Financial Intelligence Unit (FIU) and Financial Supervisory Commission (FSC) in their AML/CFT efforts.

The pursuit of ML and proceeds of crime derived from domestic offending is inadequate, with limited use of financial intelligence and analysis by law enforcement agencies (LEAs).

There have been improvements made to the Cook Islands' AML/CFT supervisory framework since its last mutual evaluation. One of these changes was the implementation of the requirement for Reporting Institutions (RIs) to assess their ML/TF risk and implement risk-based measures accordingly.

Competent authorities in the Cook Islands are actively engaged with foreign counterparts, relevant international bodies, legal instruments and networks. This is in recognition of the fact that the most significant ML/TF risks in the Cook Islands come from proceeds of crime generated overseas. While the use of mutual legal assistance (MLA) is still not fluent, the Cook Islands is constructive and timely in responding to requests for information or assistance, including MLA, from foreign counterparts.

With a low level of risk identified for TF, the Cook Islands has scope for improvement in the level of vigilance and preparedness demonstrated by law enforcement agencies (LEAs) on terrorism and TF issues. However, it has implemented an appropriate framework to identify persons and entities designated under relevant United Nations Security Council resolutions (UNSCRs); and to consider foreign requests for designation and to de-list entities.

Risks and General Situation

The Cook Islands' ML/TF risks arise to a large extent from its international exposure through its offshore/international financial sector[1]. The 2015 National Risk Assessment (NRA) identified the layering of the proceeds of foreign predicate offences through the Cook Islands offshore financial sector (banks and trust and company service providers (TCSPs)) as the main ML/TF threat. The Cook Islands offshore financial sector offers some legislated protections in relation to privacy and asset protection against creditor claims. These elements contribute to the attractiveness of the Cook Islands' offshore financial sector but also amplify the risk of ML/TF. Other threats identified included corruption, drug trafficking and organised crime groups operating within the Cook Islands.

The iterative approach to risk assessments pursued by the Cook Islands is evidence of a mature understanding of risk. The 2015 NRA and the three targeted exercises in risk assessment conducted in 2017 are a product of, and further support for, the implementation of a risk-based approach to AML/CFT. However, LEAs understate vulnerabilities associated with capacity in competent authorities and threats posed by proceeds from domestic offences.

Overall Level of Effectiveness and Technical Compliance

The Cook Islands' generally robust regulatory framework, tight-knit community and sharp focus on ML/TF issues amongst key agencies, such as the FIU and FSC, has resulted in a high level of technical compliance and a strong AML/CFT framework. However, there are structural deficiencies in the use of financial analysis, and the prioritisation of ML/TF and proceeds of crimes issues by LEAs.

Since its last mutual evaluation, the Cook Islands has enhanced regulatory oversight of licensed trustee companies (LTCs) and the banking sector. Improvements have also been made with respect to legislative provision to counter TF, including instituting a framework to identify entities designated under relevant UNSCRs.

Extract from 2014 Asia Pacific Group on Money Laundering Yearly Typologies Report:

Emerging Trends:

- Fraud or internet fraud by foreign workers.

Cook Islands was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

The Cook Islands is not a regional financial center and has no free trade zones. The Cook Islands is a self-governing democracy, operating in free association with New Zealand. The Cook Islands' substantial offshore financial sector is an important part of its economy, but also represents its most significant vulnerability to money laundering and terrorist financing activities.

The large offshore financial sector allows the operation of international companies and trusts, including offshore banks and insurance companies. All offshore business conducted from the Cook Islands must be channeled through one of the six registered trustee companies. There are four international banks, and one domestic bank also has an international license. The industry provides a wide range of trustee and corporate services to offshore investors with a tax rate for all offshore entities of zero, guaranteeing tax neutrality. The Cook Islands is a global pioneer in offshore asset-protection trusts, with laws devised to protect foreigners' assets from legal claims in their home countries. According to the Cook Islands' Financial Supervisory Commission (FSC), as of the end of 2014, there were 2,602 international trusts, 1,079 international companies, and 394 limited liability companies.

The Government of the Cook Islands is committed to diversify the Cook Islands' economy by strengthening and promoting its financial services sector, but has also taken steps to reduce the risks presented by both the offshore sector and its small domestic financial sector.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO KYC

covered entities: Banks (domestic and offshore) and offshore insurers and trustee companies

REPORTING REQUIREMENTS:

Number of STRs received and time frame: Not available

Number of CTRs received and time frame: Not available

STR covered entities: Banks (domestic and offshore) and offshore insurers and trustee companies

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: Not available
Convictions: Not available

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES
With other governments/jurisdictions: YES

The Cook Islands is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Cook Islands has a generally well-supervised financial industry. The 2014 Trustee Companies Act brings the regulatory regime for the trustee companies sector in line with that already in existence for banks and other financial institutions. The government performs annual on-site examinations of all domestic and offshore financial institutions. In June 2015, the Financial Intelligence Unit Act 2015 was enacted to provide enhanced powers to the Cook Islands Financial Intelligence Unit (CIFIU), an independent unit of the Financial Supervisory Commission, to allow it to continue to operate as a national and central unit to administer and enforce financial misconduct legislation and to conduct related investigations and analysis. The CIFIU also regulates and conducts compliance examinations of all registered reporting institutions.

Large cash transactions involving locally generated funds are immediately apparent, and suspicious transactions are reported to the CIFIU for further review. Government officials note that remaining money laundering and terrorist financing risks stem from the lower KYC standards and the provision of false information to Cook Islands financial institutions by businesses and customers in other jurisdictions, particularly in Asia.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Cook Islands does not conform with regard to the following government legislation: -

States Party to United Nations Convention Against Corruption - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

Cook Islands is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Cook Islands is considered to be an Offshore Financial Centre

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	N/A

Section 3 - Economy

Like many other South Pacific island nations, the Cook Islands' economic development is hindered by the isolation of the country from foreign markets, the limited size of domestic markets, lack of natural resources, periodic devastation from natural disasters, and inadequate infrastructure. Agriculture, employing more than one-quarter of the working population, provides the economic base with major exports of copra and citrus fruit. Black pearls are the Cook Islands' leading export. Manufacturing activities are limited to fruit processing, clothing, and handicrafts. Trade deficits are offset by remittances from emigrants and by foreign aid overwhelmingly from New Zealand. In the 1980s and 1990s, the country lived beyond its means, maintaining a bloated public service and accumulating a large foreign debt. Subsequent reforms, including the sale of state assets, the strengthening of economic management, the encouragement of tourism, and a debt restructuring agreement, have rekindled investment and growth.

Agriculture - products:

copra, citrus, pineapples, tomatoes, beans, pawpaws, bananas, yams, taro, coffee; pigs, poultry

Industries:

fruit processing, tourism, fishing, clothing, handicrafts

Exports - commodities:

copra, papayas, fresh and canned citrus fruit, coffee; fish; pearls and pearl shells; clothing

Imports - commodities:

foodstuffs, textiles, fuels, timber, capital goods

Banking

All banks are licensed and supervised by the FSC under the provisions of the Banking Act 2003. The domestic banking sector comprises three banks, two of which are branches of Australian banks, and one government-owned bank.

Section 4 - Government

Chiefs of State and Cabinet Members:

For the current list of Chiefs of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

common law similar to New Zealand common law

International organization participation:

ACP, ADB, AOSIS, FAO, ICAO, ICRM, IFAD, IFRC, IMO, IMSO, IOC, ITUC (NGOs), OPCW, PIF, Sparteca, SPC, UNESCO, UPU, WHO, WMO

Section 5 - Tax

Exchange control

For further information - <http://www.cook-islands.gov.ck/>

Treaty and non-treaty withholding tax rates

Cook Islands has signed **18 agreements (0 DTC and 18 TIEA agreements)** providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Australia	TIEA	27 Oct 2009	2 Sep 2011	Yes	Yes	
Denmark	TIEA	16 Dec 2009	5 Oct 2011	Yes	Yes	
Faroe Islands	TIEA	16 Dec 2009	not yet in force	Unreviewed	Yes	
Finland	TIEA	16 Dec 2009	2 Oct 2011	Yes	Yes	
France	TIEA	15 Sep 2010	16 Oct 2011	Yes	Yes	
Germany	TIEA	3 Apr 2012	not yet in force	Yes	Yes	
Greece	TIEA	12 Feb 2013	not yet in force	Yes	Yes	
Greenland	TIEA	16 Dec 2009	not yet in force	Unreviewed	Yes	
Iceland	TIEA	16 Dec 2009	25 Jun 2012	Yes	Yes	
Ireland	TIEA	8 Dec 2009	2 Sep 2011	Yes	Yes	
Italy	TIEA	17 May 2011	not yet in force	Yes	Yes	
Korea, Republic of	TIEA	31 May 2011	5 Mar 2012	Yes	Yes	
Mexico	TIEA	22 Nov 2010	3 Mar 2012	Yes	Yes	
Netherlands	TIEA	23 Oct 2009	7 Sep 2011	Yes	Yes	
New Zealand	TIEA	9 Jul 2009	13 Dec 2011	Yes	Yes	
Norway	TIEA	16 Dec 2009	6 Dec 2011	Yes	Yes	
South Africa	TIEA	25 Oct 2013	not yet in force	Unreviewed	Yes	
Sweden	TIEA	16 Dec 2009	6 Oct 2011	Yes	Yes	

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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Gary Youinou

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