

Nauru

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Nauru

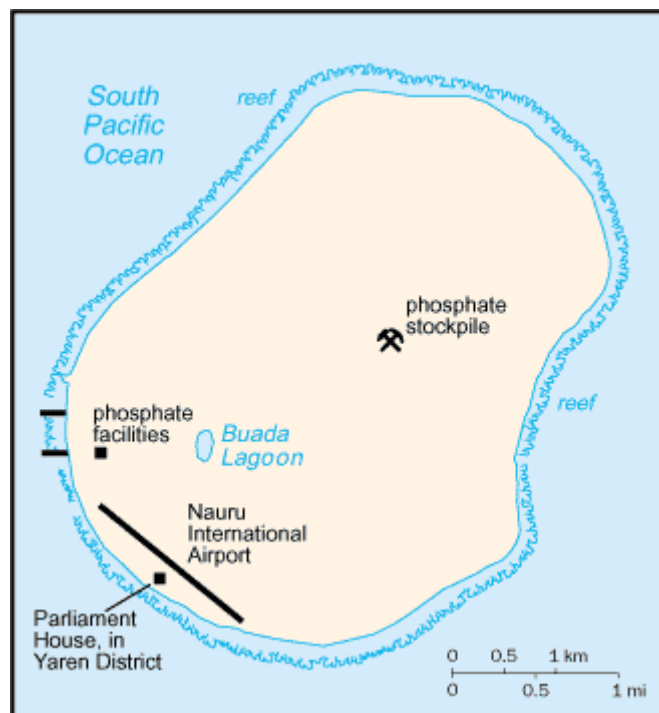
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	<p>Compliance with FATF 40 + 9 Recommendations</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International & W.G.I.)</p> <p>Offshore Finance Centre</p> <p>Compliance of OECD Global Forum's information exchange standard</p>
Medium Risk Areas:	<p>Weakness in Government Legislation to combat Money Laundering</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p>
<p>Major Investment Areas:</p> <p>Agriculture - products:</p> <p>coconuts</p> <p>Industries:</p> <p>phosphate mining, offshore banking, coconut products</p> <p>Exports - commodities:</p> <p>phosphates</p> <p>Imports - commodities:</p> <p>food, fuel, manufactures, building materials, machinery</p>	
<p>Investment Restrictions:</p> <p>The very narrow economic base, the absence of financial institutions, and the very strict land tenure and associated restrictions on foreign investment, sees very few opportunities to introduce proceeds of crime into the formal Nauru economy.</p>	

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Section 1 - Background

The exact origins of the Nauruans are unclear since their language does not resemble any other in the Pacific region. Germany annexed the island in 1888. A German-British consortium began mining the island's phosphate deposits early in the 20th century. Australian forces occupied Nauru in World War I; it subsequently became a League of Nations mandate. After the Second World War - and a brutal occupation by Japan - Nauru became a UN trust territory. It achieved independence in 1968 and joined the UN in 1999 as the world's smallest independent republic.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Nauru 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 Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Nauru was undertaken by the Financial Action Task Force (FATF) in 2012. According to that Evaluation, Nauru was deemed Compliant for 4 and Largely Compliant for 11 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 3 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2012):

Background

Nauru faces low risks of money laundering (ML) and terrorism financing (TF).

Up until 2004 Nauru's government pursued various policies which made it attractive for international ML. There is evidence of very significant levels of ML through Nauru prior to improved anti-money laundering (AML) controls and the abolition of Nauru's offshore banking sector in 2004.

Since the late 1990s and up until now Nauru has experienced an economic crunch, which precipitated the collapse of the Bank of Nauru. Between the period 2004 and 2008 there was no formal financial institution providing financial services in Nauru. A branch of Western Union has operated from a hardware store and offered remittance in Nauru since 2008.

At the time of the onsite visit, Nauru had no operational bank and there was no financial institution offering financial services beyond the one Western Union branch. The economy is entirely cash based and reliant on formal and informal remittance.

With the abolition of the offshore banking sector in 2004, there is only a relatively small offshore company registry operating in Nauru. At present only 59 corporations are registered under Nauru law, with a number of those pending for being struck off the registry. Fewer than five corporations per year have been registered over the past five years. Eleven trustee company licenses are in operation. In the past 10 years no new trust company licenses have been issued, although, 15 unit trusts have been formed under the 11 existing licenses.

The offshore companies and trusts represent a residual risk that Nauruan legal persons or arrangements could be used for laundering the proceeds of foreign offences, although the very low rate of company and trust formation in the sector may indicate that the risks are relatively low.

Nauru is a low crime jurisdiction. The very narrow economic base, the absence of financial institutions, and the very strict land tenure and associated restrictions on foreign investment, sees very few opportunities to introduce proceeds of crime into the formal Nauru economy.

Nauru has some experience in forfeiting assets directly linked to fraud against the government. The authorities have good information on the volume and techniques of laundering the proceeds of crime in Nauru, with the exception of possible misuse of corporate vehicles. Proceeds of crime from the few detected domestic profit-driven crime cases were used for personal consumption and granting of favours to family, including investment in low value motor cycles.

Key Findings

Nauru has criminalized money laundering (ML) and terrorism financing (TF), but has not yet utilised the offences. Some domestic predicate offences are missing. A wide range of terrorism financing acts are criminalised. There is no criminalisation of funding terrorist organisations or individual terrorists, other than those prescribed by the Nauru government. At the time of the onsite visit and the period immediately thereafter, no organisation or individual had been prescribed¹. Nauru has limited provisions in statute to implement United Nations Security Council Resolution (UNSCR) 1267 and successor resolutions, however it does not provide provisions to freeze property without delay and had not been brought into force at the time of the onsite visit. Nauru has a provision for a domestic designation of terrorist entities as required under UNSCR 1373, but there are no provisions to freeze related property without delay.

Law enforcement and prosecution authorities have powers to prosecute ML and TF.

Nauru set up its Financial Intelligence Unit (FIU) in 2004 as an administrative FIU with AML/CFT supervisory responsibilities. Nauru has taken steps to make the FIU operational. The resource constraints on the FIU are being addressed with the appointment of a new FIU Supervisor in October 2011, although procedures and systems are not yet in place to make the FIU effective.

Despite the almost complete absence of a financial sector, Nauru statute requires the full range of financial institutions to adopt AML/CFT preventive measures under the Anti-Money Laundering Act 2008 (AMLA). The preventive measures cover many elements of the international standards, with the exception of detailed requirement for beneficial ownership information in the course of customer due diligence (CDD) and some other key obligations. Very limited guidance has been given or supervision undertaken to ensure effective implementation of preventative measures.

The two active DNFBP in Nauru are wholly government owned. The Nauru Agency Corporation (NAC) provides all company services for Nauru Corporations. The Nauru Trustee

Corporation (NTC) licenses trust companies. AML/CFT provisions are not yet fully implemented by the two trust and company service providers.

There is no regulatory framework for non-profit organisations (NPO). Measures to protect NPOs from abuse need to be established.

Statutory provisions for mutual legal assistance (MLA) are broadly comprehensive, although their complexity may impede implementation. The gaps in coverage of domestic predicate offence may undermine effective MLA. Nauru has never received or made an MLA request. The Extradition Act 1973 includes ML and TF as a basis for extradition. Nauru can only extradite to countries designated in the law, however, no countries are designated. Nauru would need to expedite a process of designating a country before an extradition request could be met.

FIU to FIU international cooperation is supported in statute, although legal provisions appear to block the FIU from cooperating with foreign counterparts on supervisory issues. Close restrictions on the FIU disseminating information relating to tax offences may also impede FIU to FIU information sharing. There are some practical impediments to police to police cooperation due to capacity constraints and non-participation in Interpol at present.

The results achieved by the AML/CFT regime in Nauru are broadly commensurate with the risks and threats facing Nauru, although more needs to be done in relation to implementing AML/CFT controls in the offshore sector. Guidance and supervision of the alternative remittance providers needs to be undertaken.

The following steps are recommended as priorities, given the situation facing Nauru:

- The limited resources available for AML/CFT in Nauru should be better supported by strategies of prioritised implementation.
- Nauru should ensure that the Nauru Agency Corporation and Nauru Trustee Corporation prioritise implementation of AML/CFT controls for the offshore sector and that AML/CFT supervision of these entities is the priority.
- Nauru should adopt a national AML/CFT strategy commensurate with the resources available to the government.
- Nauru should continue to strive to attract a banking institution to ensure that a wider range of financial services are available to Nauruans and that these fall under national AML/CFT controls.
- Nauru should continue with reforms to pass a comprehensive Criminal Code to cover all predicate offences, including comprehensive corruption offences.

US Department of State Money Laundering assessment (INCSR)

Nauru was deemed a "Monitored" Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Nauru is a small central Pacific island nation with a population of approximately 9,400. A member of the British Commonwealth, Nauru is an independent republic but uses Australian currency. The only banking institutions operating on Nauru are the Bendigo Bank, which opened an agency in June 2015 offering traditional, internet, and telephone banking deposit and withdrawal services, and Western Union, which provides wire transfer services. The economy remains largely cash-based and reliant on formal and informal remittances. Nauru has high unemployment and is a low-crime jurisdiction. The very narrow economic base, the lack of financial institutions, and very strict land tenure and associated restrictions on foreign investment discourage the introduction of criminal proceeds into the formal Nauru economy.

Nauru has a relatively small offshore company registry with 59 operating corporations. In the past ten years no new trust company licenses have been issued, although 15 unit trusts have been formed under the 11 existing licenses. The offshore companies and trusts represent a concern, although the very low rate of company and trust formation in the sector may indicate the risks are relatively low.

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: List approach
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 and money remitters; securities and investment businesses; insurance firms; dealers in art and precious metals and stones; trust or company service providers; real estate agents and brokers; casinos and lotteries; legal practitioners and accountants; payroll services using cash; and alternative remittance providers

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 0 in 2014
Number of CTRs received and time frame: 0 in 2014
STR covered entities: Banks and money remitters; securities and investment businesses; insurance firms; dealers in art and precious metals and stones; trust or company service providers; real estate agents and brokers; casinos and lotteries; legal practitioners and accountants; payroll services using cash; and alternative remittance providers

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 0 in 2014
Convictions: 0 in 2014

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: NO

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

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of Nauru's AML/CFT regime is broadly commensurate with the risks and threats facing the country.

Though Nauru has not signed a formal MLAT with other nations, pursuant to the Proceeds of Crimes Act, the Minister for Justice may provide information to other governments on a discretionary basis in relation to money laundering offenses.

There is a need for additional controls in the offshore sector. The government should ensure the Nauru Agency Corporation, a state-owned incorporation agent, and Nauru Trustee Corporation, which registers trusts, focus their AML/CFT efforts on providing controls for the offshore sector and ensure supervision of these entities is their priority. AML legislation should be amended to include a greater number of predicate offenses, including comprehensive corruption offenses, and to reduce restrictive conditions in relation to tax matters.

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

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

Criminalised Beyond Drugs - The jurisdiction has extended anti-money laundering statutes and regulations to include nondrug-related money laundering.

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

Cooperates with International Law Enforcement - By law or regulation, banks are permitted/required to cooperate with authorized investigations involving or initiated by third party jurisdictions, including sharing of records or other financial data.

States Party to UN 1988 Convention - States parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 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

Nauru 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

Nauru 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	38

Section 3 - Economy

Revenues of this tiny island - a coral atoll with a land area of 21 square kilometres - traditionally have come from exports of phosphates. Few other resources exist, with most necessities being imported, mainly from Australia, its former occupier and later major source of support. Primary reserves of phosphates were exhausted and mining ceased in 2006, but mining of a deeper layer of "secondary phosphate" in the interior of the island began the following year. The secondary phosphate deposits may last another 30 years. Earnings from Nauru's export of phosphate remains an important source of income. Few comprehensive statistics on the Nauru economy exist; estimates of Nauru's GDP vary widely.

The rehabilitation of mined land and the replacement of income from phosphates are serious long-term problems. In anticipation of the exhaustion of Nauru's phosphate deposits, substantial amounts of phosphate income were invested in trust funds to help cushion the transition and provide for Nauru's economic future.

Although revenue sources for government are limited, the opening of the Australian Regional Processing Centre for asylum seekers since 2012 has sparked growth in the economy. Revenue derived from fishing licenses under the "vessel day scheme" has also boosted government income. Housing, hospitals, and other capital plant are deteriorating. The cost to Australia of keeping the government and economy afloat continues to climb.

Agriculture - products:

coconuts

Industries:

phosphate mining, offshore banking, coconut products

Exports - commodities:

phosphates

Imports - commodities:

food, fuel, manufactures, building materials, machinery

Section 4 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief 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:

mixed legal system of common law based on the English model and customary law

International organization participation:

ACP, ADB, AOSIS, C, FAO, G-77, ICAO, Interpol, IOC, IOM, ITU, OPCW, PIF, Sparteca, SPC, UN, UNCTAD, UNESCO, UPU, WHO

Section 5 - Tax

Exchange control

There are no exchange controls in Republic of Nauru

Treaty and non-treaty withholding tax rates

Nauru has not signed any agreements providing for the exchange of information.

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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