

# Cook Islands

---

RISK & COMPLIANCE REPORT

DATE: January 2017

**Executive Summary - Cook Islands**

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

**Contents**

**Section 1 - Background ..... 3**

**Section 2 - Anti – Money Laundering / Terrorist Financing ..... 4**

FATF status..... 4

Compliance with FATF Recommendations..... 4

Key Findings from latest Mutual Evaluation Report (2009): ..... 4

US Department of State Money Laundering assessment (INCSR) ..... 7

International Sanctions..... 10

Bribery & Corruption..... 11

**Section 3 - Economy ..... 12**

Banking..... 12

**Section 4 - Government..... 13**

**Section 5 - Tax..... 14**

**Methodology and Sources ..... 15**

## 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 Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Cook Islands was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Cook Islands was deemed Compliant for 4 and Largely Compliant for 25 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 1 of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2009):

The primary money laundering (ML) and terrorist financing (TF) risk in the Cook Islands remains its offshore financial sector. The Cook Islands has however taken some important additional steps in recent years to reduce but not eliminate the risks presented by the offshore sector, and the small domestic sector.

The Cook Islands has demonstrated commitment to enhancing its anti-money laundering (AML) and counter-terrorist financing (CFT) systems over the past few years. It has participated actively within the Asia/Pacific Group on Money Laundering since 2001 and the Egmont Group of Financial Intelligence Units since 2004, has undertaken several reviews of its AML/CFT system, and has responded to the numerous recommendations, including for legislative amendments, to improve its AML/CFT systems contained in two previous mutual evaluations (2001 and 2004), as well as enhancements arising as a result of the FATF's Non-Cooperative Countries and Territories (NCCT) process. The Cooks Islands was removed from the NCCT list in February 2005 and from monitoring by the FATF in June 2006.

While further improvements are still required, particularly in relation to the significant risks posed by the offshore trust sector, the Cook Islands has significantly enhanced the supervision of its onshore and offshore sectors over the past two to three years, and the competent authorities conduct annual on-site examinations of all financial institutions, including domestic and offshore banks and trust and company service providers.

The Cook Islands Financial Intelligence Unit (CIFIU) is well resourced and is the lead agency in the Cook Islands for AML/CFT matters. The Cook Islands' AML/CFT system relies on the CIFIU's work on financial intelligence, AML/CFT supervision, training of obliged entities, policy, reform, national co-ordination and international co-operation, but the Financial Supervisory

Commission (FSC) also plays an important role in the AML/CFT system, both as prudential regulator and specifically for AML/CFT matters under delegated authority from the CIFIU pursuant to the Financial Transactions Reporting Act 2004 (FTRA).

The ML offences, first introduced in 2000 and subsequently amended in 2003 and 2004, are largely in line with international requirements but penalties available for natural persons are not sufficiently proportionate or dissuasive and there is a lack of focus on ML investigations. Opportunities for ML investigations have been limited however there have been several opportunities that were not pursued. There have been several recent investigations of domestic drug and fraud/misappropriation crimes that have generated relatively substantial amounts of proceeds of crime. No ML charges have been laid. Recommendations have been made in the report to improve the capacity of law enforcement agencies to investigate ML.

There have been no investigations of TF and there continues to be no evidence of a terrorism threat in the Cook Islands. TF offences, introduced in 2004 and updated in 2007, are largely in line with international requirements but a penalty is required to be specified for corporations convicted of TF and other related offences. The regime for the freezing of terrorist assets is also largely in line with the international standards.

There is a legislative framework for conviction-based confiscation, however, its effectiveness is limited by certain definitions and a lack of cohesion or consistency. There have been no proceeds of crime investigations conducted in the Cook Islands, with the exception of certain assistance provided to a foreign country. The relevant agencies do not have a well developed awareness of their functions under the legislation and investigations of this nature have not been accorded high priority.

The Cook Islands has reasonably comprehensive customer due diligence (CDD) obligations which apply to equally to all reporting institutions, however important shortcomings remain in relation to legal requirements to identify and verify principal owners and beneficiaries. There is no explicit requirement for a reporting institution (RI) to determine who are the natural persons that ultimately own or control the customer when it is a legal person or legal arrangement. Although Prudential Statements issued by the FSC and guidelines issued by the CIFIU are not "enforceable", the banking sector does include the requirements in their policies and procedures as if they were mandatory requirements.

Steps have been taken in recent years to ensure that excessive secrecy provisions cannot impede the performance of competent authorities in combating ML or TF. Record-keeping requirements generally comply with the standards but requirements for wire transfers need enhancement. Requirements for monitoring unusual and suspicious transactions are generally adequate, though not all predicate offences are covered and there are low reporting levels from some sectors. The financial sector is generally well supervised, although supervision needs to be extended to the insurance sector (which is very small) and powers of enforcement and sanction are not effective, proportionate and dissuasive. Preventative measures have been extended to DNFBPs under the FTRA, but more guidance and effective implementation is required.

Trust law in the Cook Islands, particularly international trust law, is complex. There are inadequate safeguards in the international trust system to mitigate the risk that it may, or will,

be exploited by criminals. While the current practices of TCSPs to collect beneficial ownership information when registering trusts, and regular on-site inspections of TCSPs by the authorities, go some way to meeting some of these concerns, serious risks remain, particularly in relation to some of the more complex trust structures on offer.

National policy and operational coordination mechanism are generally adequate, as are measures in place for international cooperation. The Cook Islands has sought to satisfy a large number of its obligations under the relevant UN Conventions and resolutions and has made significant progress in this area since 2004. Mutual legal assistance and extradition arrangements generally comply with the standards, though some deficiencies in offence provisions may limit effectiveness.

Key recommendations made to the Cook Islands include to:

- Ensure that all designated categories of predicate offences are covered;
- Consider increasing the relevant penalty for ML for natural persons to ensure that it is proportional and dissuasive;
- Develop a strategy to ensure that appropriate ML and proceeds of crime matters are identified and investigated and action taken in a consistent manner;
- Continue to improve capacity and capability in the police for specialist investigative skill development, in particular, for financial investigators.
- Provide a definition of "principal owners" and "beneficiaries" for the purposes of CDD requirements and explicitly require RIs to identify and verify principal owners and beneficiaries;
- Bring the insurance sector fully within the AML/CFT regime;
- Provide the competent authorities with the power to impose disciplinary and financial sanctions and the power to withdraw, restrict or suspend an institution's licence where applicable;
- Review the structure of the supervisory authorities (CIFIU and FSC) to ensure that the available resources are being utilized in the most effective and productive manner and ensure that supervisors, both in the CIFIU and the FSC, have the necessary knowledge and training in order to conduct effective examinations of the offshore sector;
- Prescribe a threshold for dealers under the FTRA and provide more guidance to DNFBPs to address specific business operations that may require either simplified or, especially for TCSPs, enhanced CDD.
- Establish measures requiring TCSPs (including international trusts) to collect full identification information on the beneficial owners of trusts and establish mechanisms to mitigate the clear ML/TF risks in the offshore trust sector.

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

## **DISCLAIMER**

Part of this report contains material sourced from third party websites. This material could include technical inaccuracies or typographical errors. The materials in this report are provided "as is" and without warranties of any kind either expressed or implied, to the fullest extent permissible pursuant to applicable law. Neither are any warranties or representations made regarding the use of or the result of the use of the material in the report in terms of their correctness, accuracy, reliability, or otherwise. Materials in this report do not constitute financial or other professional advice.

We disclaim any responsibility for the content available on any other site reached by links to or from the website.

## **RESTRICTION OF LIABILITY**

Although full endeavours are made to ensure that the material in this report is correct, no liability will be accepted for any damages or injury caused by, including but not limited to, inaccuracies or typographical errors within the material, Neither will liability be accepted for any damages or injury, including but not limited to, special or consequential damages that result from the use of, or the inability to use, the materials in this report. Total liability to you for all losses, damages, and causes of action (in contract, tort (including without limitation, negligence), or otherwise) will not be greater than the amount you paid for the report.

## **RESTRICTIONS ON USE**

All Country Reports accessed and/or downloaded and/or printed from the website may not be distributed, republished, uploaded, posted, or transmitted in any way outside of your organization, without our prior consent. Restrictions in force by the websites of source information will also apply.

We prohibit caching and the framing of any Content available on the website without prior written consent.

Any questions or queries should be addressed to: -

Gary Youinou

Via our [Contact Page](#) at KnowYourCountry.com