

# Niue

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RISK & COMPLIANCE REPORT

DATE: January 2017

<b>Executive Summary Niue</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	<p>Compliance with FATF 40 + 9 Recommendations</p> <p>Weakness in Government Legislation to combat Money Laundering</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Offshore Finance Centre</p> <p>Compliance of OECD Global Forum's information exchange standard</p>
<b>Medium Risk Areas:</b>	Corruption Index (Transparency International & W.G.I.)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>coconuts, passion fruit, honey, limes, taro, yams, cassava (tapioca), sweet potatoes; pigs, poultry, beef cattle</p> <p><b>Industries:</b></p> <p>handicrafts, food processing</p> <p><b>Exports - commodities:</b></p> <p>canned coconut cream, copra, honey, vanilla, passion fruit products, pawpaws, root crops, limes, footballs, stamps, handicrafts</p> <p><b>Imports - commodities:</b></p> <p>food, live animals, manufactured goods, machinery, fuels, lubricants, chemicals, drugs</p>	
<p><b>Investment Restrictions:</b></p> <p>Information unavailable</p>	

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**Section 1 - Background**

Niue's remoteness, as well as cultural and linguistic differences between its Polynesian inhabitants and those of the adjacent Cook Islands, has caused it to be separately administered by New Zealand. The population of the island continues to drop (from a peak of 5,200 in 1966 to an estimated 1,229 in 2013) with substantial emigration to New Zealand 2,400 km to the southwest.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Niue 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 Niue was undertaken by the Financial Action Task Force (FATF) in 2012. According to that Evaluation, Niue was deemed Compliant for 3 and Largely Compliant for 10 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2012):

Niue has a low risk of money laundering and terrorist financing.

Niue has a very limited financial sector. There is one commercial bank, one development bank and two money remitters (a Western Union, which operates within the commercial bank and a travel agency) for a population of 1500 people. While there is law in place that provides for financial 7 institutions and cash dealers to be regulated for AML/CFT, very little AML/CFT regulation occurs in practice.

There has been no comprehensive assessment of money laundering (ML) and financing of terrorism (FT) vulnerabilities in Niue but the main vulnerability appears to be that there is no oversight of any financial institutions including remittance services.

The Financial Intelligence Unit is the lead agency for AML/CFT in Niue. The Financial Transaction Reporting Act 2006 (FTRA) provides a range of statutory powers to the financial intelligence unit (FIU), but those powers have not been exercised.

Overall, Niue has legislated reasonably sound measures concerning ML/FT criminalisation, confiscation and international co-operation, and the preventive measures for the financial sector, but technical and implementation deficiencies remain. There are deficiencies in the following: elements of the ML and FT offences; criminalisation of a number of predicate offences for ML, mechanisms for freezing FT funds without delay and domestic designation; administrative sanctions for breach of FTRA, obligations and powers under the FTRA, controls on movement of cash across borders; implementation of the entire AML/CFT system.

The Government of Niue closed down their International Business Companies (IBC) Register in 2006. A small number of companies from the IBC re-registered under the Niue Companies Act 2006; four remain active.

There is no express provision against shell banks and companies do not have to identify the ultimate beneficiaries of shares.

There has been no prosecution or conviction for ML and FT. Opportunities for possible ML prosecution were not pursued either due to lack of resources or expertise, and the view (by some authorities) that ML is more of an international rather than a domestic concern. The authorities consider terrorism and FT as very low risk, and there has never been a case of either event.

There is one lawyer and one accountant in Niue and neither are currently subject to AML/CFT supervision. The accountant does assist with company formation. It is not clear what the lawyer is doing as they were unable to meet with the mutual evaluation team.

Key recommendations made to Niue include:

- Continue to develop a national risk assessment, with more structured integration of the assessment into the national AML/CFT strategy
- Criminalise all 20 categories of predicate offences and address remaining legal deficiencies in the ML and FT offences
- Amend legislation to provide for designation under UNSCR 1267 and then designate under that provision
- Clarifying and identifying the financial institutions as described in the FTRA, including, for example, the Niue Development Bank falls under the definition but is not currently treated as such by the FIU as AML Supervisor
- Commence supervision of financial institutions against provisions of the FTRA, including STR and CTR reporting
- Commence outreach, guidance, training and awareness for both financial institutions and law enforcement on provisions of the FTRA 8
- Agencies to develop policies and procedures to implement the FTRA, proceeds of crime, mutual legal assistance and extradition
- Use available powers to investigate and prosecute the ML offence
- Use the powers available under the Proceeds of Crime Act 1998 to restrain and confiscate the proceeds of crime
- Provide mechanisms/procedures for freezing terrorist property without delay
- Distribute the UNSCR 1267 list to financial institutions and law enforcement
- Designate 'specified entities' under UNSCR 1373 and then distribute to financial institutions and law enforcement
- Amend the Extradition Act 2007 to overcome the fact that the law cannot be used in its current form as there are no bilateral agreements and Niue cannot make use of multilateral conventions as a basis for extradition
- Establish a strategic plan for the FIU to support prioritized implementation
- Consolidate the cross-border declaration regime and ensure reports are spontaneously shared with the FIU

Register ensuring that IBCs a

- Develop a national AML/CFT strategy commensurate with the resources available to the government
- Become a party to the United Nations Convention against Transnational Organised Crime (the "Palermo Convention"), and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention).
- Implement the requirement in the law whereby incorporated societies and companies are to provide an annual report to their respective registrar.

### US Department of State Money Laundering assessment (INCSR)

Niue 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:

Niue is not a regional financial center and has no free trade zones. Niue is a self-governing democracy, operating in free association with New Zealand. The Government of Niue relies heavily on New Zealand to assist with external and economic affairs. The country has experienced a significant decline in population, largely from the emigration of its population to New Zealand.

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: YES  
KYC covered entities: Banks; safe deposit box services, trust and company service providers, and individual funds trustees; insurers and insurance intermediaries; securities dealers, futures brokers, money exchangers and remitters; issuers, sellers, or redeemers of traveler's checks, money orders, or similar instruments; payroll and payroll funds delivery businesses; dealers in precious metals and stones; real estate agents; casinos and gaming houses (including internet gaming); lawyers, notaries, and accountants engaged in real estate, client financial management, and the creation, operation, and management of companies; and legal persons and arrangements

REPORTING REQUIREMENTS:

Number of STRs received and time frame: Not available

Number of CTRs received and time frame: Not available

STR covered entities: Banks; safe deposit box services, trust and company service providers, and individual funds trustees; insurers and insurance intermediaries; securities dealers, futures

brokers, money exchangers and remitters; issuers, sellers, or redeemers of traveler's checks, money orders, or similar instruments; payroll and payroll funds delivery businesses; dealers in precious metals and stones; real estate agents; casinos and gaming houses (including internet gaming); lawyers, notaries, and accountants engaged in real estate, client financial management, and the creation, operation, and management of companies; and legal persons and arrangements

**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: YES

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

**ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

In recent years Niue has tightened its legislation to comply with international standards against money laundering and terrorist financing. The financial intelligence unit (FIU) exchanges financial intelligence related to money laundering and financing of terrorism with the New Zealand FIU.

Niue is not a member of the UN. It generally complies with international AML/CFT standards, and AML/CFT legislation includes the 2004 United Nations Sanctions Regulations (Terrorism Suppression and Afghanistan Measures). A Mutual Assistance in Criminal Matters (Amendment) Bill and a Terrorism Suppression and Transnational Crime (Amendment) Bill have been pending before Niue's Parliament for at least three years.

The FIU should make publicly available the number of financial intelligence reports it receives so as to better evaluate the effectiveness of its AML program. The Government of Niue should become a party to the United Nations Convention against Corruption.

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

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

**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.

**International Transportation of Currency** - By law or regulation, the jurisdiction, in cooperation with banks, controls or monitors the flow of currency and monetary

**Ability to freeze assets without delay** - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

**Criminalised Financing of Terrorism** - The jurisdiction has criminalized the provision of material support to terrorists and/or terrorist organizations.

**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.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**Reports Suspected Terrorist Financing** - By law or regulation, banks and/or other covered entities are required to record and report transactions suspected to relate to the financing of terrorists, terrorist groups or terrorist activities to designated authorities.

**Criminalised Tipping Off** - By law, disclosure of the reporting of suspicious or unusual activity to an individual who is the subject of such a report, or to a third party, is a criminal offense.

**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

Niue 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**

Niue 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

The economy suffers from the typical Pacific island problems of geographic isolation, few resources, and a small population. Government expenditures regularly exceed revenues, and the shortfall is made up by critically needed grants from New Zealand that are used to pay wages to public employees. Niue has cut government expenditures by reducing the public service by almost half. The agricultural sector consists mainly of subsistence gardening, although some cash crops are grown for export. Industry consists primarily of small factories to process passion fruit, lime oil, honey, and coconut cream. The sale of postage stamps to foreign collectors is an important source of revenue. The island in recent years has suffered a serious loss of population because of emigration to New Zealand. Efforts to increase GDP include the promotion of tourism and financial services, although the International Banking Repeal Act of 2002 resulted in the termination of all offshore banking licenses. Economic aid from New Zealand in FY08/09 was US\$5.7 million. While in the process of rebuilding, Niue has been dependent on foreign aid.

#### **Agriculture - products:**

coconuts, passion fruit, honey, limes, taro, yams, cassava (tapioca), sweet potatoes; pigs, poultry, beef cattle

#### **Industries:**

handicrafts, food processing

#### **Exports - commodities:**

canned coconut cream, copra, honey, vanilla, passion fruit products, pawpaws, root crops, limes, footballs, stamps, handicrafts

#### **Imports - commodities:**

food, live animals, manufactured goods, machinery, fuels, lubricants, chemicals, drugs

## Section 4 - Government

### Executive Branch

Chief of state: Queen ELIZABETH II (since 6 February 1952);

election results: Toke TALAGI reelected premier in Legislative Assembly vote; Toke TALAGI - 11, Togia SIONEHOLO – 8

### Legal system:

English common law

### International organization participation:

ACP, AOSIS, FAO, IFAD, OPCW, PIF, Sparteca, SPC, UNESCO, UPU, WHO, WMO

## Section 5 - Tax

## Exchange control

For further information - <http://www.gov.nu/wb/>

## Treaty and non-treaty withholding tax rates

Niue has signed **8 agreements (0 DTC and 8 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	
Denmark	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
Faroe Islands	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
Finland	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
Greenland	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
Iceland	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
New Zealand	TIEA	29 Aug 2012	not yet in force	Yes	Yes	
Norway	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	
Sweden	TIEA	16 Oct 2013	not yet in force	Unreviewed	Yes	

<b>Methodology and Sources</b>
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### 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](#))

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