

THE COOK ISLANDS – MEETING INTERNATIONAL REGULATORY STANDARDS

The Cook Islands is complying with its international obligations in relation to anti money laundering and the countering of terrorist financing and transparency and the exchange of financial information to combat tax evasion. It continues to work with international organisations such as the FATF and the OECD as it is committed to providing financial services in accordance with international standards and best practice.

The following summarises the Cook Islands achievements to date in meeting international regulatory standards.

1. FATF Anti-Money Laundering/Counter Terrorist Financing

2009 – Mutual Evaluation Report on Anti Money Laundering and Combatting the Financing of Terrorism carried out by Asia Pacific Group on Money Laundering (an FATF style regional body) and the Offshore Group of Banking Supervisors.

Rounds of Mutual Evaluations have been carried out on 166 countries to determine compliance with the FATF recommendations for combatting money laundering and the financing of terrorism. The Cook Islands 2nd Round report was published in July 2009 and showed the Cook Islands at that time to be in the top 20% of countries in the world for implementing international regulatory AML/CTF standards. The Cook Islands next Mutual Evaluation is due in 2017.

The Cook Islands Financial Intelligence Unit is an independent unit within the Cook Islands Financial Service Commission dedicated to collecting, analysing and disseminating financial information and intelligence on suspected money laundering, the financing of terrorist activities and other serious offenses to the appropriate authorities in the Cook Islands and internationally.

2. Transparency and the Exchange of Information

OECD Global Tax Transparency Forum Phase 2 Peer Review

The Cook Islands is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes. The Cook Islands phase 2 peer review (published in March 2015) judged the Cook Islands to be “largely compliant”. Phase 2 peer reviews check that a jurisdiction is actually following the tax transparency practices set out in its legislative framework and in international agreements for exchange of information on request (“EOIR”). As of July 2016, 22 jurisdictions were deemed fully compliant, 67 largely compliant and 12 partially compliant. 22 jurisdictions have yet to progress from the Phase 1 review due to non-compliance with OECD standards.

Multilateral Convention on Mutual Administrative Assistance on Tax Matters

The Cook Islands signed the Multilateral Convention on Mutual Administrative Assistance on Tax Matters (the “Convention”) on 28 October 2016. The Convention was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010. The Convention is the most powerful and comprehensive multilateral instrument available for all forms of tax co-operation including automatic exchange of information (“AEOI”).

The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information

The Cook Islands signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (“MCAA”) in October 2015. The MCAA sets out the common reporting standard (“CRS”)



to be followed by participating jurisdictions in regards to the AEOI. The signing of the MCAA is a commitment by the Cook Islands to include the CRS in its local laws and to commence the AEOI by 2018.

Income Tax (Automatic Exchange of Financial Account Information and Other Matters) Amendment Act 2016

The Income Tax (Automatic Exchange of Financial Account Information and Other Matters) Amendment Act 2016 (the “Amendment”) was passed into law on 26 September 2016. The primary purpose of the Amendment is to provide for the exchange of financial information in accordance with the CRS. Regulations pursuant to the Amendment giving effect to the provisions of the CRS are currently being drafted.

Tax Information Exchange Agreements

The Cook Islands has entered into 21 bi-lateral Tax Information Exchange Agreements (“TIEAs”). TIEAs are based on an OECD model and are another tool designed to promote international co-operation in tax matters through the exchange of information. Some jurisdictions have amended existing bi-lateral Double Tax Agreements to include information sharing provisions in accordance with the OECD’s TIEA model.

Foreign Account Tax Compliance Act

Cook Islands financial institutions have commenced providing information to the US IRS in regards to US account holders. The Foreign Account Tax Compliance Act (“FATCA”) is United States legislation requiring jurisdictions to report, either directly to the IRS or through inter-governmental agreements, information on US tax residents’ offshore financial accounts and assets.