



The Cook Islands Review

Finally ... it is now official!

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The Cook Islands AML/CFT regime is one of the best in the world.

In the Autumn edition of the Cook Islands Review, published in August this year, we proudly announced that the Cook Islands Mutual Evaluation Report (MER) was tabled and adopted at the Asia Pacific Group on Money Laundering's (APGML) AGM held in Kathmandu, Nepal (21-27 July 2018), where the Cook Islands achieved an outstanding result indicating it has one of the best AML/CFT regimes in the world.

However, due to Financial Action Task Force (FATF) procedures requiring all MERs be subjected to a quality and consistency review, the Cook Islands MER was eventually published without amendment on 22 October 2018, making it official that the Cook Islands is a global leader in the fight against money laundering and other financial crimes.

In regards to the FATF 40 Recommendations, the Cook Islands received 38 ratings of Largely Compliant and above, bettered by no other jurisdiction. In terms of the implementation and effectiveness of its laws and systems, when measured against the FATF's 11 Immediate Outcomes the Cook Islands attained 5 substantial ratings, 4 moderate ratings and 2 low ratings. This resulted in the Cook Islands being one of only two jurisdictions within the APG membership to be placed in the "regular" follow up process. This is a rare achievement.

The media release following the publication of the Cook Islands MER can be found on our website (www.cookislandsfinance.com), as well as charts showing how the Cook Islands AML/CFT regime compares to countries within the APGML membership and globally.

This outstanding result for the Cook Islands has been achieved through the commitment and hard work of the Cook Islands government, its crown agencies and the private sector. It is anticipated that the Cook Islands' MER will be recognized internationally, given its independence and comprehensive nature, whilst giving great comfort to governments, institutions and businesses alike when dealing with the Cook Islands and its financial services industry. It is hoped this result will help dispel much of the misinformation that exists in relation to the Cook Islands and its financial services industry.

The Cook Islands
Financial Services
Development
Authority will
commence
operating as "Cook
Islands Finance."

“A long and not always comfortable journey”



Tamatoa Jonassen, CEO, and the Honourable Mark Brown at STEP Asia 2017, Singapore

At the beginning of this millennium the Cook Islands was named by the Financial Action Task Force (FATF) as a “non-cooperative country or territory,” a jurisdiction that it deemed had insufficient systems, processes and controls in place to combat money laundering (ML) and other financial crimes. The Cook Islands was “blacklisted.” Eighteen years on and the Cook Islands has one of the best anti-money laundering/countering the financing of terrorist (AML/CFT) regimes in the world.

The Cook Islands’ journey from AML outcast to global leader has taken time due to both the time it takes the Asia Pacific Group on Money Laundering (APGML), a FATF style regional body, to assess and report on the AML regimes of countries within its region (41 countries with an average of 4-5 reports being published annually) but also due to the demands that achieving the FATF standards place on a small jurisdiction and its limited resources. The Cook Islands is one of the smallest jurisdictions in the APGML (and most certainly in the world) but is required to have the same framework of AML/CFT systems, processes and controls as the USA, China, India, Australia, Canada and New Zealand, being some of the other APGML members.

The Cook Islands understood the negative impact being blacklisted could have on its economy and its ability to do business internationally. Therefore, following its blacklisting in June 2000, it undertook a thorough review and analyses of the AML systems, controls and processes in place within its financial services industry, to identify what would be needed to meet international standards. This review and analyses resulted in a suite of legislation being passed in 2003 and 2004. The most notable enactments were the Financial Supervisory Commission Act 2003 (FSCA 2003), which established the Financial Supervisory Commission (FSC), and the Financial Transactions Reporting Act 2004 (FTRA 2004). The FSC became and remains responsible for the licensing and supervision of financial institutions including banks, insurance companies, trustee companies and money transmitters, and the Cook Islands’ overall compliance with international AML/CFT standards. The FTRA 2004 targeted the prevention, detection, investigation and prosecution of serious offences, including money laundering and terrorist financing, by establishing a Financial Intelligence Unit (FIU) and imposing customer due diligence requirements on reporting institutions.

In addition to the FSCA 2003 and FTRA 2004, other laws passed to broaden and enhance the Cook Islands’ AML framework included laws to: criminalise money laundering; trace and seize the proceeds of crime; provide international assistance in criminal matters; and eliminate shell banks.

On the basis of the laws passed and systems, controls and processes implemented, the FATF removed the Cook Islands from its blacklist in February 2005.

In 2009 an evaluation of the Cook Islands AML/CFT regime was undertaken by the APGML. The Cook Islands achieved a very favourable report which, whilst indicating further improvements were still required, acknowledged that the Cook Islands had: demonstrated commitment to enhancing its AML and CFT systems; responded to the numerous recommendations, including for legislative amendments, to improve its AML/CFT systems; and had significantly enhanced the supervision of its onshore and offshore sectors.

Continued on next page.

“The Cook Islands AML/CFT regime is one of the best in the world.”



The Cook Islands delegation at the APG plenary in Kathmandu, Nepal, July 2018.

“A long and not always comfortable journey” ... Cont'd.



Alan Taylor, Marketing Director, presenting at the Southpac Trust Offshore Institute in Las Vegas, June 2017.

By 2014 the FATF had revised its 40 Recommendations and adopted a new methodology to ascertain the effectiveness of a jurisdiction's AML/CFT regime. It then commenced a new round of mutual evaluations based on the new framework. That framework required countries, including the Cook Islands, to re-examine their AML/CFT regimes, enact new laws, introduce new systems and procedures and allocate even further resources in an attempt to avert the ignominy of being blacklisted or otherwise singled out as being a bad international citizen.

The Cook Islands evaluation was slated for 2017. It therefore began a review of its AML/CFT laws and framework which resulted, amongst other things, in the Financial Transactions Reporting Act 2017 as well as amendments to its laws on the proceeds of crime, suppression of terrorism and international mutual assistance in criminal matters, and the investigative powers given to the FIU.

The mutual evaluation process commenced in early 2017 and included an on-site evaluation in November 2017 of the Cook Islands' AML/CFT regime undertaken by two representatives of the APGML and 6 independent assessors appointed by the APGML. The on-site evaluation lasted 2 weeks. This long and arduous process culminated in the publication of the Cook Islands' MER on 22 October 2018, more than 18 months from when the evaluation process began.

The Cook Islands has continuously demonstrated that it understands its international obligations and is committed to meeting them. Its journey from AML outcast to world leader is irrefutable evidence of this.

“The Cook Islands has continuously demonstrated that it understands its international obligations and is committed to meeting them.”

On the Road

France: In October, Alan Taylor, our Marketing Director, accompanied Cheryl McCarthy, the Deputy Commissioner of the Cook Islands Financial Supervisory Commission, to Paris, France to represent the Cook Islands at the Financial Action Task Force Plenary.

Hong Kong: We will be sponsoring and attending this year's STEP Asia 2018 conference, to be held in Hong Kong on November 20-21. The STEP Asia conference is regarded as a must attend event for those practising and providing services in the wealth planning industry. Cook Islands Finance will be represented by Alan Taylor, our Marketing Director.

Nevis: We have supported the Southpac Offshore Planning Institute in the past and we are looking forward to continuing our support at the next conference in May 2019.



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**World map showing the
Cook Islands at the heart of
the Pacific.**

In the News

FATF Announcement on Virtual Asset Service Providers

At its October Plenary in Paris the Financial Action Task Force (FATF) resolved to amend its policy recommendations to require virtual asset service providers be licensed and subject to anti-money laundering regulations and compliance monitoring.

The FATF noted that cryptocurrencies and other virtual assets “create new opportunities for criminals and terrorists to launder their proceeds or finance their illicit activities” and that “there is an urgent need for all countries to take coordinated action to prevent the use of virtual assets for crime and terrorism.” The FATF is encouraging all countries to quickly take the necessary steps to prevent the misuse of virtual assets. The FATF will be reviewing its standards as they apply to the virtual asset sector within the next 12 months.

The FATF’s announcement was in response to requests from governments and the private sector for greater clarity about exactly which virtual asset activities its standards apply to. In July, G20 countries’ finance ministers stated there is a need for urgent action to address the “real and growing money laundering terrorist financing and tax evasion risks from crypto assets.”

Under Cook Islands law, anyone engaged in specified activities provided in regulation is required to comply with the provisions of the Financial Transactions Reporting Act 2017. Virtual currency business, which includes trading, issuing, lending, transferring, storing and managing virtual currencies, is a named specified activity. Therefore, anyone engaging in such activity in the Cook Islands or through a Cook Islands incorporated or registered entity is required to obtain due diligence on customers, monitor financial transactions and report suspicious transactions associated with their business. At present, those engaged in virtual currency business are not licensed in the Cook Islands and therefore not regulated and supervised by the Financial Supervisory Commission.

Visit Our Website

We regularly add topical items under our Industry News webpage and post articles to highlight Cook Islands financial services and products to advisors, intermediaries, clients and those with an interest in what the Cook Islands can provide. Please visit our [website \(www.cookislandsfinance.com\)](http://www.cookislandsfinance.com) for more information.

About Us

The Cook Islands Financial Services Development Authority (“FSDA”), operating as Cook Islands Finance, is a government agency tasked with the development of the financial services industry in the Cook Islands. The FSDA was established in 2009 and functions independently from the Financial Supervisory Commission that regulates the industry. The FSDA focuses on promoting the Cook Islands, coordinating on industry relevant issues, and developing financial products and services. The FSDA is an important point of contact for any financial institution looking to establish a presence in the Cook Islands. Individuals seeking a Cook Islands financial service provider can find details on our [website](http://www.cookislandsfinance.com).

Important Information: The Cook Islands Financial Services Development Authority does not provide advice, recommendations or opinions regarding legal and/or tax matters under any circumstances. To the extent that this communication, or anything referenced herein may concern tax matters, it is not intended to be used, and cannot be used, for the purpose of avoiding tax liabilities or penalties that may be imposed by law, foreign and domestic. The Cook Islands Financial Services Development Authority strongly recommends that before any person makes a decision to create a structure, professional legal and tax advice should be taken in his/her country of residence.
