



# The Cook Islands Review

## With great power comes great responsibility.

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It has been a busy 2019 so far for everyone in the financial service industry. It would appear however that no organisation has been busier than the European Union (EU). On 13 February 2019 the European Commission (EC), the EU's executive arm, updated the list of jurisdictions that it considers has weak AML/CFT regimes. The number of countries on the list increased from sixteen to twenty-three and included; Bahamas, People's Republic of Korea, Iraq, Libya, Pakistan, Panama, Samoa and Syria. A spokesperson for the EC announced that once again, Europe advanced "*an extra mile*" to act as a "*lighthouse*" for those who want to have the best rules in this field: "*Europe cannot be a laundromat for dirty money that sponsors crime and terrorism.*" The EC has advised that the list is not for sanction purposes, but a warning mechanism to offer guidance to banks and other financial players to look more closely and apply enhanced due diligence when they operate with actors from these jurisdictions. The ECs work in the AML/CFT space is separate from the FATF's AML/CFT mutual evaluation programme, despite the FATF containing 13 member states of the EU.

In addition to its AML/CFT work, the EU has also been busy updating its list of non-cooperative tax jurisdictions. On 12 March 2019 the EU published a new list of jurisdictions it considers carry on harmful tax practices. 15 countries were listed including Barbados, Belize, Bermuda, Fiji, Marshall Islands, Samoa and Vanuatu. The EU has assessed over 90 countries based on three criteria; tax transparency, fair taxation and anti base erosion and profit shifting (BEPS) measures. The EU confidently declared that the updated list "*shows that this clear, transparent and credible process delivered a real change.*" Not wanting to understate the EU's efforts, Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs described the EU's tax blacklist as "*probably the most spectacular thing we have done*" whilst claiming "*The EU tax havens list is a true European success. It has had a resounding effect on tax transparency and fairness worldwide*". The EU's work on harmful tax regimes is separate from the OECD Global Tax Forum's work on the same issues, which includes CRS, despite the OECD containing 23 member states of the EU.

The EU's political agenda and its efforts to get better control of its tax payers has affected most of the rest of the world. However, to date, it appears the EU has not ventured to the USA or China with its "*clear, transparent and credible process*".

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The Cook Islands  
Financial Services  
Development  
Authority now  
operates as "Cook  
Islands Finance."

## “With great power comes great responsibility”

For small jurisdictions, like the Cook Islands, the EU’s approach has required allocation of significant resources to address and deal with issues raised in order to avoid the ignominy and potential harmful economic effect of being blacklisted. The Cook Islands efforts in this regard are clearly reflected in the fact it is not on the EU’s AML/CFT blacklist nor its list of non-cooperative tax jurisdictions. Also, the Cook Islands is a member of the OECD’s Global Tax Forum and its Inclusive Framework for BEPS and has fully implemented CRS. In October 2018 the Cook Islands received an outstanding mutual evaluation report from the FATF and APGML in regards to its AML/CFT regime.

It is becoming more difficult for small jurisdictions to do business around the world (and especially financial service providers), even those that are not blacklisted. In attempting to impose its tax policy on those jurisdictions the EU appears to show little concern for the potential damage to small economies. It can only be hoped that as the EU exercises its power to achieve its objectives it also shows some responsibility for the consequences.



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

“The Cook Islands is not on the EU’s AML/CFT blacklist nor its list of non-cooperative tax jurisdictions.”

## Articles Published

In March 2019 Alan Taylor, Acting CEO, had an article published in the Asia Business Law Journal entitled “Cook Islands Leading the Way”. The article covers the Cook Islands journey from AML outcast to world leader resulting in its outstanding 2018 Mutual Evaluation Report published by the FATF in October 2018.

The latest edition of **Invest 2019** magazine features an interview with Alan Taylor, Cook Islands Finance Acting CEO. In the interview Alan discusses, amongst other things, the significance of the Cook Islands 2018 Mutual Evaluation Report, the enduring appeal of the Cook Islands asset protection trust and how the Cook Islands is best able to meet Chinese wealth management needs.

## In the News

### Tamatoa Jonassen moves on

Tamatoa Jonassen has left his position as CEO of Cook Islands Finance. Tamatoa has taken up the role of Head of the Cook Islands Ministry of Justice. Alan Taylor, Cook Islands Finance Marketing Director, has been appointed as Acting CEO. Cook Islands Finance wishes Tamatoa all the very best in his new role and thanks him for his effort and contribution to the financial services industry.

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

## Managed Trust Companies in the Cook Islands



**Alan Taylor, Acting CEO,  
at STEP Asia 2018, Hong  
Kong**

The ability to access the Cook Islands strong legal and regulatory framework as well as its independent and robust judicial system, without the need to establish a physical presence, has always been an option for those looking to carry on trustee company business in the Cook Islands. The cost of setting up and maintaining a business can be avoided, whilst enjoying the benefits available, through the use of a managed trustee company (MTC).

To further encourage trust and company service providers to consider the Cook Islands as a location for their business, the Cook Islands Financial Supervisory Commission has issued a guidance note on managed trustee company business (the Guidelines) to provide certainty and clarity as to the regulatory regime applicable to MTCs as well as to assist with operational matters.

A MTC in the Cook Islands is one that is licensed under the Trustee Companies Act 2014 without the need for a physical presence in the Cook Islands. Instead, it has its trust company business managed by a licensed trust company (“LTC”) that does have a physical presence. A MTC is required to submit a full licensing application to the Commission and will be subject to the same regulatory and anti money laundering legislation as a LTC.

The MTC is not required to have a resident director, although the Commission may require a director be present for any audit or onsite inspection. It can conduct its business and keep its records at the offices of the LTC. That LTC can also provide the money laundering reporting officer and compliance officer (as required by legislation) to the MTC.

A MTC provides the licensee the benefits of having a trust company business license without the cost of establishing and maintaining an office in the Cook Islands. It allows the licensee time to develop its business before deciding to establish a physical presence.

**For more information on Cook Islands Managed Trustee Companies, please contact Cook Islands Finance.**

**The Cook Islands  
Financial  
Supervisory  
Commission has  
issued a guidance  
note on managed  
trustee company  
business in the  
Cook Islands**

## On the Road



**Delegates at the Southpac  
Offshore Planning Institute's  
conference in Nevis  
May 2019**

**Nevis:** Alan Taylor, Acting CEO Cook Islands Finance, recently attended the Southpac Offshore Planning Institute's conference in Nevis, on 1-3 May 2019. Cook Islands Finance has supported the Southpac Offshore Planning Institute in the past and was very pleased to do so again in Nevis. The theme of this year's conference was managing asset protection in the modern environment. Alan presented the Conference with an update on the Cook Islands financial service industry as well global trends in taxation and regulation. The Conference was well attended by attorneys and financial service providers from around the world. Cook Islands Finance would like to congratulate Southpac on another excellent conference.

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

## Upcoming Events

**Singapore:** This year's STEP Asia Conference will be held in Singapore at Marina Bay Sands on 6-7 November. Over a number of years the STEP Asia Conference has proved to be a must attend event for all professionals involved in the trust, tax and estate planning fields. Cook Islands Finance is proud to announce that it will be a major sponsor of the STEP Asia Conference 2019, continuing its support of this outstanding event. We will post more information on the Conference on our website as it comes to hand.



**STEP Asia Conference 2018 was held in Hong Kong.  
Cook Islands Finance will be sponsoring the 2019  
event to be held in Singapore**

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## 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.

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## About Us

The Cook Islands Financial Services Development Authority ("FSDA"), operating as Cook Islands Finance, is a government agency tasked with the promotion and 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 and its financial services and products as well as coordinating on industry relevant issues. 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. \(www.cookislandsfinance.com\)](http://www.cookislandsfinance.com)

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**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.**

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