



**FINANCIAL SUPERVISORY COMMISSION
COOK ISLANDS**

STATEMENT OF CORPORATE INTENT

2009-10

&

2010-11

Financial Supervisory Commission

Statement of Corporate Intent: 2009-10

Preliminary

The Financial Supervisory Commission Act 2003 was brought into force on 3 June 2003 by determination by the Queen's Representative by Order in Executive Council.

The Board of the Commission comprises

Trevor C. Clarke, Chairman
John Whitta
Raymond Newnham
Tina Pupuke Browne
Kevin Carr

This Statement of Intent is issued by the Commission for the purposes of section 27 of the Financial Supervisory Commission Act 2003. It covers the year 1 July 2009 - 30 June 2010 and, as required by section 27, comments also on the year 1 July 2010 - 30 June 2011.

Objectives of the Commission

The objectives of the Commission are:

- To supervise licensed financial institutions to determine whether they are in sound financial condition and are complying with their governing law and supervisory requirements.
- To advance and administer a supervisory framework which complies with internationally accepted standards and promotes the adoption of policies and procedures designed to control and manage risk.
- Through the supervision of licensed financial institutions, to promote financial stability and sound business practice and to assist the Cook Islands Government to prevent the use of licensed financial institutions for financial crime and money laundering.
- To assist the financial sector to develop through establishing and maintaining an internationally credible regulatory and supervisory regime.
- To operate the Registries of International Companies, International Trusts, International Partnerships and Limited Liability Companies to a professional standard.

“Licensed financial institutions” are Banks licensed pursuant to the Banking Act 2003, Trustee Companies registered pursuant to the Trustee Companies Act 1981-82 and insurers licensed pursuant to the Insurance Act 2008.

The Commission is the licensing authority of “licensed financial institutions” and will monitor the performance of the licensees against those standards imposed by the legislation which it administers.

The Commission administers the following enactments:

Financial Supervisory Commission Act 2003
Banking Act 2003
Trustee Companies Act 1981-82
Insurance Act 2008
International Companies Act 1981-82
International Trusts Act 1984
International Partnerships Act 1984
Limited Liability Companies Act 2008

The Commission is to make recommendations to the Minister of Finance for legislative, administrative or other action which will facilitate the objectives of the Commission and develop and regulate the integrity of licensed financial institutions.

Government's policy in relation to the Commission is to promote and support the Commission in its objectives and functions as an independent institution. Government has established the Commission with independent funding so that the Commission is free from annual appropriation. Government has also established the Commission as free from Government direction in the performance of its functions and duties.

The Commission will act as a good employer, as that term is defined in the Public Service Act 1995-96.

These objectives will apply for both the year commencing 1 July 2009 and the year commencing 1 July 2010.

Nature and scope of activity to be undertaken in the financial year 1 July 2009 to 30 June 2010

Compliance reviews of the Financial Transactions Reporting regime will be an ongoing activity with licensed banks and other licensed financial institutions, as defined, during the year.

The Commission will participate in the Plenary meeting of the Asia Pacific Group on Anti Money Laundering in July 2009 where the Report of the Mutual Evaluation of Anti Money Laundering and measures to Combat Financing of Terrorism in the Cook Islands will be considered. The Commission will be involved in consideration of any measures recommended to enhance the AML/CFT regime in the Cook Islands

An on-site examination of each bank licensed in the Cook Islands will be conducted.

Off-site supervision will be conducted through the review of data supplied by banks and insurers.

The Commission will continue to liaise with the Australian Prudential Regulation Authority (APRA) in respect of the supervision of the two major Australian commercial banks (ANZ and Westpac) that have branches in the Cook Islands.

The Commission will licence or approve, where appropriate, insurers and insurance intermediaries under the provisions of the Insurance Act 2008.

The Commission will continue to review the operations of trustee companies in the Cook Islands with a view to maintaining principles and standards for the conduct of trustee company business and the regulation of that business by the Commission to internationally accepted standards. The Commission will also seek guidance from international agencies in this undertaking.

Throughout the year the Commission will continue to administer the legislation for which the Commission is responsible, including the regulation and registration of international companies, international trusts, international partnerships and limited liability companies.

Legislation requiring licensing of money changers and remittance businesses is expected to be enacted before 1 July 2009 and this will be administered by the Commission.

The Commission will undertake all such activities on a timely and proper basis.

The Commission will liaise with the Financial Sector Development Authority, once established, to assist with the development of the offshore industry.

The Commission will review the legislation relating to trustee companies, international companies and international trusts with a view to modernising the legislation.

The Commission will supervise the wind down of offshore banks

The Commission will apply to become a member of the Offshore Group of Banking Supervisors and to become an observer to the Offshore Group of Insurance Supervisors.

Underpinning the Commission's activities for the year will be constant attention to the training of staff and strengthening the Commission's capacity and ability to perform its tasks.

Technical assistance will continue to be sought from the Pacific Financial Technical Assistance Centre, the International Monetary Fund, APRA through its Pacific Governance Support Program and the Financial Stability Institute.

Upskilling of other staff (such as the Registrars) will also be given when possible by structured training programmes and attendance at international conferences and seminars.

The Commission will promote its web site to improve transparency of the supervisory regime in the Cook Islands in the public interest.

The Commission will report on a periodic basis to the Minister of Finance on the legislation administered by the Commission and advise on amendments recommended by the Commission to enhance the performance of the Commission's obligations and the achievement of its objectives.

The Commission will review the accounting standards that apply to regulated entities with a view to adopting International Financial Reporting Standards for these entities.

Nature and scope of activity to be undertaken in the financial year 1 July 2010 to 30 June 2011

The Commission will continue to fulfil its duty to administer legislation for which it is responsible.

In particular, but without limiting the extent of the Commission's duties to be performed in that year, the Commission will:

- (a) Undertake the prudential supervision of the banking business of all banks holding banking licences to carry on banking business in the Cook Islands;
- (b) Encourage and promote the bank licensees to carry out sound practices in relation to prudential matters;
- (c) Undertake licensing and approvals of insurers under the Insurance Act 2008 and consequent prudential supervision;
- (d) Undertake licensing and supervision of insurance intermediaries under the Insurance Act 2008;
- (e) Continue to regulate Trustee Companies to internationally accepted standards.
- (f) Investigate and review the performance by licensed financial institutions of their obligations pursuant to Part 2 the Financial Transactions Reporting Act 2004;
- (g) Consider and deal with on a timely basis all completed applications to the Commission for a licence, registration or authorisation pursuant to any enactments the Commission has responsibility to administer;
- (h) Efficiently administer the requirements for registration and renewal of registration of international companies, international trusts, international partnerships and limited liability companies
- (i) Deal with in a timely manner any other matters brought before the Commission.

The Commission will continue to enhance the capacity and ability of the Commission to perform its obligations and achieve its objectives by training of staff and proper manning of the Commission.

The Commission will also continue to report to the Minister of Finance on the suitability of the legislation administered by the Commission.

Performance Targets for the years 1 July 2009 - 30 June 2010 and 1 July 2010 - 30 June 2011

The Commission will seek to achieve the following targets:

- (1) To conduct each year an on-site examination of all banks in the Cook Islands.
- (2) To undertake off-site reviews of all data supplied by banks and insurers on a quarterly basis.
- (3) To administer new applications for banking licences on a timely basis with all applications for new licences being determined within three months of the receipt of the completed application.
- (4) Undertake licensing, and approvals where appropriate, of insurers under the Insurance Act 2008, with all applications for new licences being determined within three months of receipt of the completed application, and consequent prudential supervision of insurers;
- (5) Undertake licensing and supervision of insurance intermediaries with all applications for new licences being determined within three months of receipt of the completed application under the Insurance Act 2008;
- (6) Acting in cooperation with the Financial Intelligence Unit, to conduct each year compliance reviews of all trustee companies, banks and life insurers in respect of the Financial Transactions Reporting regime.
- (7) To review each year the operations of trustee companies in relation to the Statement of Best Practice issued by the Offshore Group of Banking Supervisors.
- (8) To administer registration and renewal of registration of international companies, international trusts and limited liability companies efficiently and without delay.
- (9) To complete the subordinate legislation to the Insurance Act 2008 by July 2009 and to then publicise the new insurance regulatory regime, particularly as it applies to domestic and captive insurers.
- (10) To keep under on-going review legislation administered by the Commission with a view to recommending amendments where the legislation needs to reflect changes in the global financial environment, including best international supervisory and regulatory practice.
- (11) To undertake by 30 June 2010 a review of accounting standards for financial institutions, with a view towards moving to uniformity.
- (12) To enhance the skills of supervisory staff, principally by use of technical training provided by the Pacific Financial Technical Assistance Centre, the International Monetary Fund, the Australian Prudential Regulation Authority and the Financial Stability Institute.
- (13) To maintain a structured programme for upskilling the staff of the Commission throughout the year.
- (14) To report to the Minister of Finance on the legislation administered by the Commission by 31 December and 30 June each year.
- (15) To undertake enforcement action where necessary to achieve the Commission's objectives.
- (16) To discharge all other obligations on a timely and proper basis under the legislation which the Commission has responsibility to administer.

The Financial Resources required to achieve the Performance Targets

Expenditure

The estimated expenditure of the Commission for the year 1 July 2009 to 30 June 2010 is as follows:

PERSONNEL	\$	\$
Salaries	463750	
Superannuation	16400	
Staff training	25000	
Conferences	20000	
Travel	5000	
	530150	530150
BOARD		
Fees	80,000	
Expenses	2,000	
	82,000	82000
COMMISSIONER		
Accommodation	22000	
Travel	25000	
Entertainment	2000	
Insurance	1500	
Recruitment	25000	
	75500	75500
SENIOR SUPERVISOR		
Accommodation	16000	
Travel	7000	
Insurance	2000	
	25000	25000
MANAGER OFFSHORE		
Travel	12000	12000
OPERATING EXPENSES		
Communications	10000	
Energy	14500	
Office Rental	53000	
Office Supplies	6000	
Office Cleaning	5000	
Advertising	10000	
World Check	5000	
Subscriptions	5000	
Bank fees	2000	
Expensed equipment	14000	
Accounting fees	7000	
Professional costs	80000	

Maintenance	4000	
Vehicles	29500	
Insurance	3000	
Depreciation	14000	
	262000	262000
PAYMENT OF LEVY TO GOVERNMENT		
Levy on International Trusts to fund FSDA payable to the Crown	377125	377125
TOTAL		1,363,775

Revenue

The financial resources available to the Commission to carry out its undertaking and to achieve its performance targets are:

- (a) All licence, registration and miscellaneous fees payable under the following enactments:

Banking Act 2003
Trustee Companies Act 1981-82
Insurance Act 2008
International Companies Act 1981-82
International Trusts Act 1984
International Partnerships Act 1984
Limited Liability Companies Act 2008
Money-changers and Remittance Businesses Act (when enacted)

The estimated fees from these sources for the year 1 July 2009-30 June 2010 are \$1,746,044 (net of VAT): (All amounts are in New Zealand dollars; fees payable to the Commission are generally denominated in US dollars and income is therefore subject to currency exchange fluctuations. The rate of .58 was used to prepare these figures.):

	\$
Banks - domestic	13125
Banks - offshore	54810
Insurance	10500
Trustee companies	45675
International Companies	411075
International Trusts	1,132,285
Limited Liability Companies	30450

Miscellaneous	48125
Total	1,746,044

- (b) Any other moneys appropriated by Parliament for the purposes of the Commission.

No moneys are expected to be appropriated by Parliament for the purposes of the Commission for the year 1 July 2009-30 June 2010.

- (c) Moneys donated to the Commission or to the Government of the Cook Islands for the purposes of the Commission by any regional or international agency or by any foreign Government.

Apart from the amount of \$377,125 which the Commission anticipates collecting to fund the Financial Sector Development Authority, from increased registration and renewal fees for International Trusts, the Commission expects to have a net surplus income over expenditure of \$382,269 for the year ending 30 June 2010 and \$435,000 for the following year. These amounts are net of VAT, which is payable on the revenue derived by the Commission.

The Commission maintains reserves of approximately 6 months expenditure as a contingency fund. In 2008-09 reserves were reduced to an amount of \$100,000 less than the amount considered optimal by the Board due to the costs incurred by the Commission in defending a matter in the High Court of the Cook Islands. Therefore, \$100,000 will be retained by the Commission from excess funds to replenish its reserves. In accordance with section 24(2) of the Financial Supervisory Commission Act 2003, excess funds will be paid to the Cook Islands Government. The excess funds are estimated to be \$282,269.

For the year 1 July 2010 - 30 June 2011 income and expenditure are projected as follows:

	\$	\$
INCOME	1,833,346	1,833,340*
EXPENDITURE		
- Personnel and management expenses including Board	727,290	
- Operating expenses and depreciation	275,100	
- Payment to Crown for FSDA	395,950	
	1,398,340	1,398,340
SURPLUS		435,000

*The exchange rate used for this calculation is .58

The costs, if any, to the Commission in recognizing Government's policies.

The Commission does not expect to incur any costs in the year 1 July 2009 - 30 June 2010 or in the year 1 July 2010 - 30 June 2011 in recognising the Government's policies which are not within the ambit of the Commission's own policies.

The Accounting Policies of the Commission

The Accounting Policies of the Commission for the year 1 July 2009 - 30 June 2010 and for the year 1 July 2010 - 30 June 2011 are as follows:

ACCOUNTING POLICIES

Financial statements will be presented and prepared in accordance with the International Accounting Standards issued by the International Accounting Standard Board (IASB), the Ministry of Finance and Economic Management Act 1995-96 and the Financial Supervisory Commission Act 2003.

GENERAL ACCOUNTING POLICIES

The general accounting policies recognised as appropriate for the measurement and reporting of results, cash flows and the financial position under the historical cost method have been followed in the preparation of these financial statements. The financial statements have been prepared using the accrual basis of accounting.

PARTICULAR ACCOUNTING POLICIES

The following particular accounting policies, which significantly affect the measurement of financial performance, financial position and cash flows have been applied:

(i) Revenue

The Financial Supervisory Commission derives revenue from various fees charged relating to the provision of services by the offshore financial services industry in the Cook Islands. Registration and renewal fee income is recognised on the date the registration or renewal is issued.

(ii) Foreign Aid

Foreign aid received and disbursed is included in the Statement of Financial Performance in accordance with Section 24 of the Financial Supervisory Commission Act 2003.

(iii) Foreign Currencies

Foreign currency transactions are recorded at the exchange rates in effect at the date of the transaction. Monetary assets and liabilities arising from trading transactions or overseas borrowings are translated at closing rates. Gains and losses due to currency fluctuations on these items are included in the Statement of Financial Performance.

(iv) Fixed Assets

Fixed assets are recorded at cost less accumulated depreciation.

The cost of purchased fixed assets is the value of the consideration given to acquire the assets and the value of other directly attributable costs which have been incurred in bringing the assets to the location and condition necessary for their intended service.

(v) Leased Assets

Operating lease payments, where the lessors retain substantially all the risks and rewards incidental to ownership, are representative of the pattern of benefits derived from the leased assets and accordingly are charged to the Statement of Financial Performance in the periods in which they are incurred.

(vi) Depreciation

Depreciation of fixed assets is provided on a straight line basis so as to allocate the cost of assets to their estimated residual value over their estimated useful lives. The estimated useful lives are:

Motor vehicles	4 years
Furniture and fittings	10 years
Office equipment	3 – 4 years

(vii) Taxation

The Financial Supervisory Commission is an agency of the Crown and is therefore exempt from the payment of income tax in terms of the Income Tax Act 1997. Accordingly, no charge for income tax has been provided for.

(viii) Provision for Employee Entitlements

Annual leave and time off in lieu of overtime worked are recognised as they accrue to employees.

(ix) Financial Instruments

Financial instruments primarily consist of bank balances, receivables and payables. Revenue and expenses in relation to all financial instruments are recognised in the Statement of Financial Performance.

(x) Commitments

Future expenses and liabilities to be incurred on contracts that have been entered into at balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

(xi) Contingent Liabilities

Contingent liabilities are disclosed at the point at which the contingency is evident.

(xii) Statement of Cash Flows

Cash is considered to be cash balances on hand and current accounts in banks, net of bank overdrafts.

Operating activities include cash received from all income sources of the Commission and record the cash payments made for the supply of goods and services.

Investing activities are those activities relating to the acquisition, holding and disposal of fixed assets and investments.

Financing activities comprise capital injections by, or repayment of capital to, the Crown.

(xiii) Value Added Tax (VAT)

All statements of account are exclusive of VAT. The Statement of Financial Position is exclusive of VAT except for payables and receivables which are stated VAT inclusive as these represent the total amount to be paid or collected by the Commission to or from third parties.

The amount of VAT owing to or from the Revenue Management Division at balance date, being the difference between Output VAT and Input VAT, is included in payables or receivables as appropriate.

Such other Matters as Are Agreed between the Minister of Finance and the Commission.

No additional matters have been agreed between the Minister of Finance and the Commission for inclusion in this Statement of Intent for the year 1 July 2009-30 June 2010 and no additional matters are expected to be agreed between the Minister of Finance and the Commission for the inclusion in the Statement of Intent to be issued by the Commission for the year 1 July 2010-30 June 2011.

Dated at Rarotonga this day of April 2009.

Trevor C. Clarke
Chairman
Financial Supervisory Commission