

## PRESS RELEASE

Today the Cook Islands Parliament passed the Trustee Companies Act 2014 which will fill a void in the regulatory control of the Cook Islands financial industry.

The Act replaces the Trustee Companies Act 1981-82 and provides powers to the regulator, the Financial Supervisory Commission (FSC), to carry out its functions as current international standards demand. The main new requirements or controls that the Act will bring in are: -

- Intervention grounds which if breached will allow the FSC via the Courts to take over the running of a Trustee Company if they were breaking the law or have become financially distressed. Thus protecting its customers.
- Provide the FSC with powers to refuse a licence or revoke an existing one if those associated with it are not fit and proper persons or have criminal records, or to protect the reputation of the Cook Islands in financial matters.
- Provides for the vetting by the FSC for key staff and shareholders.
- Provides powers to allow the FSC to issue directions to a licenceholder and take other enforcement action.
- Provides powers for the FSC to investigate unlicensed Trustee Companies.
- Provides the FSC with information seeking powers.
- Provides various offences for not running a Trustee Company properly and honestly e.g. making false statements to customers, concealing facts etc...
- Provides for proper recourse to the Courts for licenceholders unhappy with FSC actions and other checks and balances on the activities of the FSC in this area.

The Cook Islands is now fully compliant with current international standards regarding Trustee Companies which require regulatory authorities to have:

- Powers to supervise or monitor and ensure compliance with the anti-money laundering and countering the financing of terrorism requirements (AML/CFT).
- Authority to conduct inspections of financial institutions.
- Powers to authorise or compel production of relevant information.
- Powers to impose sanctions for failure to comply with the AML/CFT requirements, which should include powers to impose disciplinary and financial sanctions. This should also include the power to withdraw, restrict or suspend a licence.

The international standards in this area are set out in the Financial Action Task Force's (FATF) Forty Recommendations on Combatting Money Laundering and the Financing of Terrorism and Proliferation. These are the international standards that all jurisdictions are evaluated against and if found badly wanting, international action can follow, such as being put on the FATF's warning lists, refusal of international aid, blacklisting etc.

The Cook Islands was last evaluated against these standards in 2009 and received one of the highest assessments and markings in the Pacific region. However, the international standards have since been revised and rewritten since that assessment. The new Act strives to ensure the resilience of

the Cook Island's financial regulatory regime to stand-up to modern scrutiny by our peers and international bodies.

All Trustee Companies operating in the Cook Islands were consulted on in the drafting of this Act and have contributed to its final wording.

This Act will bring the regulatory regime for Trustee Companies sector in-line with that already in existence for banks and other financial institutions.

Minister of Finance, Mark Brown commented that "The passing into legislation of the Trustee Companies Act 2014 is very important for the Cook Islands and the future good governance of our financial industry. It helps ensure that we continue to make the Government's regime to help protect our financial industry from abuse by criminals and terrorists, one of the best in the world. This Act will greatly help the Cook Islands in any future assessments or international scrutiny."

"The present Government is committed to meeting international and recognised world standards wherever it can, to help protect the Cook Islands, its people, its industries and its reputation. The passing of the Trustee Companies Act 2014 continues that commitment and strengthens our nation's defences against money launderers and the financiers of terrorism abusing our facilities and services."

Paul Heckles, FSC Commissioner, stated "This is a very important Act, which the passing of will significantly help the Cook Islands when international bodies evaluate and scrutinise, whether we have effective and serious regulatory control of our financial industry."

#### Notes for Editors

The last international assessment of the full financial regulatory regime in the Cook Islands was undertaken by the Asia/Pacific Group on Money Laundering (APG), a FATF regional body. Their website can be found at:- <http://www.apgml.org/>

Their Mutual Evaluation Report on the Cook Islands was issued on 9 July 2009 and a copy can be found at:-

<https://www.fsc.gov.ck/cookIslandsFscApp/content/assets/fa20d6faa9ccb577b92b5fc051a899f0/Cook%20Islands%20MER-%20final%20140809.pdf>

The next inspection by the APG is likely to take place sometime in, or shortly after, 2019.

Details about the FATF can be found at:- <http://www.fatf-gafi.org/>

The FATF Forty Recommendations on Money Laundering and the Countering the Financing of Terrorism & Proliferation can be found at:- <http://www.fatf-gafi.org/media/fatf/documents/FATF%20Standards%20-%2040%20Recommendations%20rc.pdf>