



# NATIONAL RISK ASSESSMENT 2015

This report presents findings regarding the risks of money laundering and terrorism financing in the Cook Islands.

*Money Laundering  
& Financing of  
Terrorism  
in the  
Cook Islands*

## FOREWORD

Welcome to the ***Cook Islands National Money-Laundering and Terrorism Financing Risk Assessment 2015*** report. This is the second report that has been produced for the Cook Islands, and is the first by the Cook Islands Financial Intelligence Unit and key agencies of the Coordinating Committee on Money Laundering and Terrorist Financing (AML/CFT Committee) in consultation with the private sector. It represents the progress undertaken by the Cook Islands since the 2008 Money-Laundering Risk Analysis (Assessment), and its continued compliance with the Financial Action Task Force (FATF) Recommendations<sup>1</sup> and the relevant Cook Islands Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) legislation.

Money laundering and terrorism financing are global issues and the Cook Islands have a responsibility to ensure that it creates and maintains an environment hostile to these offences. An up-to-date and reliable assessment of the Money Laundering/Terrorism Financing (ML/FT) risks is part of that responsibility.

The Pacific Transnational Crime Threat Assessment Report 2014<sup>2</sup> clearly identifies the Pacific Region as a target region for the transshipment of illegal goods and services including persons, firearms and illicit products due to resource, capacity and legislative implications within the region.

Understanding the risk of ML/FT is important in response to the on-going efforts of monitoring and reviewing of such risk, and this requires effective dialog and consultation between stakeholders. The sharing of information is vital in ensuring that risk management plans and policies are developed relevant to the objectives and the progress achieved since the last assessment. This in turn enables decision makers to exchange ideas, clarify any uncertainty and ultimately make better and more confident decisions on how to effectively combat and prevent these global crimes.

Key elements to implementing such an approach remain both as to how much we understand the risk environment, and the degree to which mechanisms are in place that promote collaboration and intelligence sharing across agencies. To this end the Financial Intelligence Unit will also be producing an Annual Typology Report which I envisage will play an important part in enhancing and refining the National Risk Assessment process and will provide a forum to disseminate information to our partner agencies.

---

<sup>1</sup> FATF 40 Recommendations – [www.fatf-gafi.org/.../fatfrecommendations/.../fatf-recommendations.html](http://www.fatf-gafi.org/.../fatfrecommendations/.../fatf-recommendations.html)

<sup>2</sup> Pacific Islands Forum Secretariat

This risk assessment recognises that while risk can be mitigated and managed, zero risk is unattainable. Not only would zero risk be impossible it would be undesirable as measures to achieve it would be disproportionate, intrusive, cumbersome and expensive. In short, the assessment and management of risk has to be strengthened by common sense and the recognition that there will always be some form of residual risk. The National Risk Assessment represents an opportunity for law enforcement agencies, regulators and reporting entities to bring this common sense to bear on AML/CFT issues. These issues can have far reaching and very serious consequences as experienced in overseas jurisdictions.

The AML/CFT Committee and I look forward to a greater contact with the relevant stakeholders over the coming years and the production of the 2017 ML/TF National Risk Assessment.

Kind regards,



**Bob Williams**  
**Head of FIU & Chairman**  
**AML/CFT Coordinating Committee**

## Contents

FOREWORD.....	1
Main Threats: .....	5
Extent of money laundering and terrorist financing in the Cook Islands: .....	5
Typologies and indicators: .....	6
Case Studies:.....	6
Emerging Trends:.....	7
Law Enforcement Strategies: .....	8
Regulatory Strategies: .....	8
Conclusions and recommendations: .....	9
SECTION 1 – RISK ASSESSMENT: .....	11
1 Nature and extent of relevant domestic criminal activity.....	11
2. Proceeds of Crime .....	15
2.1 Amounts of proceeds of crime generated domestically. ....	15
2.2 Physical cross-border inflows and outflows of the proceeds of crime. ....	16
2.3 Amounts of proceeds of crime generated abroad and laundered domestically. ....	16
2.4 Sources, location, and concentration of criminal activity, including within illegal underground areas in the economy.....	17
2.5 Nature and extent of terrorist activities in neighbouring countries.....	17
2.6 Nature and extent of organised groups in neighbouring countries. ....	17
3. Country Environment:.....	17
3.1 Political Environment: .....	18
3.2 Defence:.....	18
3.3 Economic and Geographical Environment. ....	19
3.4 Financial Sector.....	20
3.5 Geographic .....	20
3.6 Customer .....	21
3.7 Ownership Structures .....	21
3.8 DNFBP Sector .....	21
3.9 Non-Profit Organisation Sector .....	22
4. Key Agencies .....	22
SECTION 2 – RISK ANALYSIS: .....	28
SECTION 3 – EVALUATION:.....	32

3.1 Conclusion:.....	33
3.2 Recommendations: .....	33
Acknowledgement:.....	34
INDEX .....	35
Bibliography .....	35
END NOTE .....	35

# EXECUTIVE SUMMARY

---

The National Risk Assessment (NRA) 2015 on money laundering and terrorism financing builds on the National Risk Assessment of 2008. It represents the contribution of both the private sector (reporting entities) and the relevant government agencies that form the AML/CFT Committee. Statistics and information collected from key stakeholder agencies and entities for the period of 2011 and 2013 were used for the purpose of the NRA 2015.

## Main Threats:

The main threats of money laundering identified are imported risks emanating through the offshore financial sector. In particular fraud<sup>3</sup> offences committed abroad, and where the proceeds are laundered into or through international trusts or companies incorporated in the Cook Islands and bank accounts maintained by commercial banks. Alternatively, international trusts and companies also being used as a transit vehicle to launder illegal proceeds to another jurisdiction.

Environmental crimes in particular illegal fishing by foreign registered fishing vessels are an emerging risk. As are crimes involving drugs, theft and corruption.

Whilst the regulatory regime for financial institutions and the designated non-financial and business professions (DNFBP's) has been strengthened over the years, knowledge gaps in fully understanding and capacity to investigate money laundering offences by law enforcement officials, continues to be an issue.

---

<sup>3</sup> Tax fraud, Security fraud, Mortgage fraud, Commodities fraud and wire fraud.

## Extent of money laundering and terrorist financing in the Cook Islands:

Since the criminalisation of money laundering as an offence in the Cook Islands under the Crimes Amendment Act 2004, there has been no direct investigation or prosecution of money laundering. The full nature and extent of money laundering in the Cook Islands is not well understood across most law enforcement agencies, as reflected by the lack of investigation and prosecution cases for money laundering offences.

There still remains no evidence of any person or group operating for the purpose of raising funds, or undertaking any transaction to fund any terrorist person, group or activities identified by the United Nation Securities Council or by any country.

Predicate offence charges that have the potential for associated money laundering investigations between 2011 and 2013 were not well accounted and maintained. One case was recommended in 2011 for a money laundering charge resulting from a structuring investigation<sup>4</sup> and prosecution under the Financial Transactions Reporting Act 2004. However, the charge was subsequently withdrawn due to insufficient evidence.

A proceed of crime action was initiated in March 2012 where the sum of \$140,000.00 was restrained by the Financial Intelligence Unit (FIU) relating to a structuring investigation and prosecution. Although the funds were released due to a legal deficiency, other formal measures were explored to have

---

<sup>4</sup> Structuring is an offence when a person conducts two or more transactions or electronic funds transfers that are of an amount below the threshold of \$10,000.00 in a manner or form for the sole or dominant purpose of ensuring, or attempting to ensure, that no report in relation to the transaction or transfers is required to be made to the FIU.

part of the restraint funds forfeited to the Crown.<sup>i</sup>

The FIU also responded to the freezing of suspected proceeds from foreign predicate offences and money laundering.

- In September 2012, the sum of USD 1.2 million from a Suspicious Transaction Report (STR) was investigated and identified as the proceeds of a fraud committed abroad.<sup>ii</sup>
- In June 2013, the sum of USD 6.04 million which was identified as proceeds from a securities fraud committed abroad, was frozen by the FIU. The funds were repatriated back to the requesting country by consent of the account holder.<sup>iii</sup>

### **Typologies and indicators:**

There are no terrorism financing typologies or indicators over the three years from 2011 to 2013. However, identifying and developing valid and reliable indicators for this offence is important.

Money laundering typologies were limited and are neither fully maintained nor completely documented.

However, the FIU raw data indicates that STR's increased from 36 to 52 between 2011 and 2012, and fell to 51 in 2013. The quality of the STR's has improved over the years and in 2013, 31 STR's were rated High Priority, 19 rated as Medium Priority where 2 were rated as Low Priority<sup>iv</sup>. The Banks continue to generate most of the STR's followed by the Trustee Companies.<sup>v</sup>

### **Suspicious Transaction Report**

STR's are the main source of information available to the Financial Intelligence Unit to detect suspected money laundering, terrorism financing or serious offences. An STR can indicate that a money laundering activity, a serious offence, or terrorism financing is occurring through a transaction or series of transactions or activity. The FIU can direct investigators to identify a predicate offence. An investigation can be initiated from an STR. There is no monetary threshold for reporting STR's.

In 2013, the typologies noted from the STR's are the use of foreign individuals and companies, wire transfers, and transactions from foreign countries where the bank does not do normal banking business with. Of the 51 STR's received by the FIU, 31 were single reports where 8 STR's included supplementary reports, and 13 STR's are domestic and the rest relating to suspicious activities and transactions from abroad. Furthermore, 11 of the 51 STR's were referred to the Police for investigation and 4 cases were successfully prosecuted. Two STR's relate to a foreign investigation and one case is still before the court. Other cases resulted with a warning being administered and 30 STR's were referred to counter-part FIU's.

### **Case Studies:**

In July 2011, a foreign national residing in the Cook Islands was contacted through facebook by a person named Jennifer Osnuv. During the facebook conversation Osnuv offered the defendant a job. The job required the defendant to provide Osnuv his wife's bank account details. In return Osnuv transferred a total sum of \$11,000.00 into the account. The defendant then withdrew the money, deducted 10% commission for himself and sent the rest of the money to an Amadi Kingsley, in Nigeria via Western Union. As a result the defendant benefited by

\$1,200 from the fraud via the 10% commission. The matter was successfully investigated and prosecuted by the Police for theft by conversion. <sup>vi</sup>

In May 2012, an STR was filed to the FIU regarding an email account being compromised by a foreign individual who subsequently requested to transfer the total sum of USD 270,000 from an international trust account, to an account in a foreign jurisdiction. The matter was referred to a law enforcement agency in the jurisdiction where the funds were transferred to, which subsequently resulted in a successful investigation, prosecution and restraint for part of the funds. <sup>vii</sup>

In September 2012, as a result of a customer due diligence process, a local bank discovered that false identification documents were submitted to open an account. The total sum of USD 1.2 million was transferred from abroad into a holding account for further credit into the account to be opened. The account was not processed, and an STR was filed to the FIU where the funds were immediately frozen by the FIU. The resulting investigation involved three countries, five individuals, four legal entities and three financial institutions. The funds remain frozen and the investigation by a foreign law enforcement agency and the Cook Islands FIU is still pending, due to the difficulty of identifying the culprit(s). <sup>viii</sup>

In March 2013, a foreign national employed by a hotel resort was investigated for payroll fraud.

The investigation revealed that between April 1<sup>st</sup> 2011 and December 31<sup>st</sup> 2012, the defendant paid himself extra funds on top of his wages into another staff member's bank account. The defendant then would instruct the staff member to withdraw the extra funds

and have it paid to him, either by bank transfer to his account or be delivered to him in cash. An STR was filed to the FIU and a temporary freeze was applied to the defendants account and the matter was referred to the Police. The total amount of the theft was \$10,112.00 and the defendant was successfully prosecuted by the Police for theft as a servant. <sup>ix</sup>

## Emerging Trends:

The following emerging trends and vulnerabilities will potentially have some impact on the AML/CFT efforts in the Cook Islands:

- New technology
- Use of virtual currency
- Cross border movement of illegal goods and currencies
- Trade based money laundering
- Cybercrime
- Unregulated fishing
- Tax evasion; and
- Official corruption.

Transnational organised crime in the Pacific is largely driven by a number of factors that make the region attractive to Organised Crime Gangs (OCGs). These include:

- Access to lucrative markets: Australia and New Zealand represent lucrative markets for illicit products and along with Canada and the United States of America, are key destination countries for illegal migration.
- Strategic geographical location: The Pacific region borders East Asia, South America and Australia and New Zealand, providing an attractive transit point for OCGs seeking to transport people and illicit goods between these destinations.
- Pacific Islands viewed as a relatively low risk region for transnational crimes

and easy access for OCGs: The Pacific region provides an opportunity for OCGs to disguise the origin of illicit products and illegal migrants to facilitate their entry into the target countries like Australia and New Zealand.

## **Law Enforcement Strategies:**

A new Customs Act was passed in 2012 to update the old 1913 legislation. The new law modernises Customs provisions and allows for greater powers to protect the country's borders. <sup>x</sup>

The Rarotonga International Airport was upgraded in 2011 with the new Passenger Processing system established in 2010. A CCTV system was installed in November 2012.

A new amendment was made to the Tax Act in 2011 to allow the sharing of tax information with other jurisdictions. In December 2013, amendments were made to the Financial Transactions Reporting Act 2004, the Foundations Act 2012, International Companies Act 1981-82, International Partnerships Act 1984, International Trust Act 1984, and the Limited Liabilities Companies Act 2008 to address issues raised by the Global Forum on Transparency and Exchange of Information for Tax Purposes <sup>xi</sup> regarding the submission and keeping of financial records for a period of 6 years under the related legislations. The amendment to the Foundation Act 2012 also included the identification and verification of an Enforcer, and as well as under the Financial Transactions Reporting Act 2004 as amended in December 2013 respectively.

A National Intelligence Unit was established in October 2012 for key law enforcement agencies to share national intelligence to

address national issues that falls under the mandate of each agency.

A regional cross-border operation targeting the movement of currency was coordinated by the New Zealand Customs Service, along with the Cook Islands and other Pacific jurisdictions from August to September 2013. <sup>xii</sup>

## **Regulatory Strategies:**

On 1 July 2012, the FIU was placed as an independent unit with the Financial Supervisory Commission (FSC).

The prudential supervision of banks by the FSC and the AML/CFT examination of banks and trustee companies by the FIU and the FSC are an annual program to ensure compliance with the Banking Act 2011 and the Financial Transactions Reporting Act 2004.

All DNFBP's are subject to an annual AML/CFT examination by the FIU.

The manual recording of international trusts and company details came to an end in December 2011 when the online registry was introduced to enhance and provide:

- Efficiency and consistency of the registration and renewal process. The online system has set validation requirements to ensure that registration or renewal does not proceed unless all filing requirements have been met.
- Efficiency in the preparation and issuance of notice letters for entities with expired registration - all automated.
- Efficiency in the removal process, particularly involving entities that are deregistered for non-renewal - all automated.

## Conclusions and recommendations:

Money laundering and terrorist financing are global problems. As such it is important that the Cook Islands is not perceived as a “weak link” internationally and should be proactive in combating these offences.

This assessment aims to generate knowledge and understanding to inform stakeholders and policy makers about the nature and scope of the problem and identify how vulnerable the Cook Islands is to these global problems. As a consequence to then aid the policy makers to put in place policies, procedures and legislation, to mitigate the identified risks.

## Introduction:

The Coordinating Committee endorsed this second round of National Risk Assessment (NRA) with the aim:

- to identify and determine as to how well the relevant agencies and the private sector has responded to mitigate any ML/TF risks in the Cook Islands since the 2008 National Risk Assessment.
- to identify what future policies or national strategy can be drawn to address any on-going or future weakness in the overall AML/CFT framework.

The NRA is a process that aims to provide decision makers with valid and reliable information to formulate national AML/CFT policies commensurate to the risk identified, and make reasonable decisions on the legal and regulatory framework and the allocation of resources to:

- Operational agencies, including law enforcement, other investigative authorities, the Financial Intelligence Unit and border agencies; and
- The Regulatory agency.

## Background:

The first Cook Islands NRA was undertaken by a consultant, namely, Mr John Walker in October 2008. He was an Associate Professor from Wollongong University, Australia who was engaged by the FIU to undertake the assessment. The scope of the assessment covered the wider spectrum of the Cook Islands AML/CFT regime and it captured inputs from the relevant government agencies involved with the implementation of the AML/CFT regime and the private sector.

The World Bank Strategic Implementation Planning template was utilised for the purpose of the assessment. The overall outcome of the 2008 Assessment reflected that the ML/TF risks across the wider AML/CFT spectrum in the Cook Islands were rated **LOW**, except the offshore sector which was rated as **MEDIUM** risk.

The Financial Action Task Force (FATF) in February 2012, revised its standards against money laundering and terrorism financing. As a result an assessment of a jurisdiction’s ML/TF risks was identified as an essential foundation to efficient allocation of resources and the application of a risk based approach supervision.

## Purpose:

The purpose of this second round of risk assessment is:

- to identify, assess and understand any changes with the ML/TF risks in the Cook Islands;
- to determine the level and nature of the controls that the relevant government agencies or private sector have put in place to address those risks;
- Identify what measures would need to be put in place to address the gaps or

weaknesses in the implementation of the AML/CFT regime;

- to inform Policy Makers of the risk areas that require the development of relevant policy measures; and
- to deploy appropriate resources to mitigate the identified risks relevant to the sector or agency; or
- for the key agencies to seek appropriate resources to effectively perform AML/CFT functions and responsibilities.

## Scope:

---

The scope of this second round of assessment also covered the wider spectrum of the AML/CFT regime of the Cook Islands, both at the national level and the sectors captured by the Financial Transactions Reporting Act 2004 (FTRA). The following agencies and entities were involved with this second round of assessment and members were selected as agency representatives on to the National Risk Assessment Team (NRAT):

### 1. Public Sector Agencies:

- Business Trade and Investment Board
- Cook Islands Customs Service
- Cook Islands Police Service
- Crown Law Office
- Customs Service
- Financial Intelligence Unit
- Financial Supervisory Commission
- Foreign Affairs and Immigration
- Ministry of Marine Resources
- Ministry of Justice
- Office of the Ombudsman
- Revenue Management Division (Tax)

### 2. Private Sector Entities:

- Accountant Firms
- Banks
- Lawyers
- Money Service Providers
- Motor Vehicle Dealers

- Pearl Dealers
- Real Estate
- Trustee Companies
- Non-Profit Organisation's

## Methodology:

---

A combination of methods was utilised to collect the data and information including utilising a questionnaire, group projects, and meetings with stakeholders and of the National Risk Assessment Team. A variety of tools were also used to analyse the data and information such as the Strategic Implementing Planning spread sheet<sup>xiii</sup>, a Risk Assessment Form from Bright Hub's resource guide, and a spread sheet relating to statistics from the Organisation for Security and Co-operation in Europe.

The rating was subjectively awarded based on the experience and knowledge of the NRAT members about the relevant legislations they administer and the crime situation within their area of responsibilities.

### Definition:<sup>xiv</sup>

Risk, which is often equated with uncertainty and constraints, cannot be completely removed. However, a thorough understanding of the risks using a risk assessment form, helps in finding propositions to reduce the risks as far as possible.

**Risk** can be seen as a function of three factors: *threat, vulnerability and consequence of impact.*

1. *Threat – is a person or group of people, object or activity with the potential to cause harm to the state, society or economy.*

2. *Vulnerability – comprises things that can be exploited by the threat or that may support or facilitate activities.*
3. *Consequences – refers to the impact or harm that money laundering or terrorism financing may cause and includes the effects of the underlying criminal or terrorist activity on financial systems and institutions, as well as the economy and society more generally.*

## SECTION 1 – RISK ASSESSMENT:

This risk assessment serves as an important process in assisting the prioritisation of the identified risks and mitigating strategies. In this document, risk is assessed within the context of law enforcement and regulatory efforts and the context of money laundering and terrorism financing in the domestic environment. This is across all the sectors captured under the AML/CFT regime of the Cook Islands.

### 1 Nature and extent of relevant domestic criminal activity.

Overall, the level of the associated money laundering threat committed domestically is generally **LOW**. Investigations into predicate crimes are effectively pursued by law enforcement agencies. However, the lack of effectively pursuing money laundering investigations by law enforcement agencies, including proceeds of crime actions relating to domestic predicate crimes, is of concern. Parallel financial investigations to associated predicate offences to money laundering has not been fully considered and applied, in particular to drug investigations. Proceeds generated from domestic predicate crimes are mainly for personal use or life style satisfaction, apart from those avoiding their tax obligations. The comingling of proceeds

with business sales income and the use of child benefit accounts to layer proceeds from crime are evident, but capacity and resource challenges limits the ability of law enforcement agencies to effectively investigate and prosecute those matters.

#### 1.1 Organised crime<sup>xv</sup>

There continues to be no evidence of any organised crime groups operating in the Cook Islands. There has been no change since the 2008 National Risk Assessment. No case has been reported to the Police and no Suspicious Transaction Report (STR) has been received by the FIU relating to organised crime between 2011 and 2013. The threat presented by organised crime in the Cook Islands remains to be **LOW**.

#### 1.2 Human Trafficking

There continues to be no evidence of any human trafficking problem in the Cook Islands. No case has been reported to the Police and no STR related to human trafficking has been received by the FIU between 2011 and 2013. There has been no change since the 2008 Risk Assessment. The threat presented remains to be **LOW**.

#### 1.3 Sexual exploitation

There was no evidence of any sexual exploitation reported during the 2008 Assessment. There was no such case reported in 2012 and 2013 respectively. The level of threat remains to be **LOW**.

#### 1.4 Illicit trafficking of drugs and psychotropic substances

There has been no clear evidence of

any hard drugs such as cocaine, heroin or amphetamines being trafficked into the Cook Islands since the 2008 Assessment. However there have been a small number of cases involving importation and domestic cultivation of cannabis between 2011 and 2013. There was one incident of drug transshipment through Cook Islands waters in 2012 where the vessel subsequently ended up shipwrecked on a reef in Tonga. Two STR's related to drug offending were received by the FIU between 2011 and 2013. There has been an insignificant change since the 2008 Assessment. The threat presented is **MEDIUM**.

### **1.5 Illicit trafficking of arms**

There continues to be no evidence for the illicit trafficking of arms into or out of the Cook Islands. There has been one case where an individual attempted to import a firearm for personal use without having the proper permit. No STR was received by the FIU between 2011 and 2013 relating to smuggling weapons. There has been no change since the 2008 Assessment. The threat presented remains to be **LOW**.

### **1.6 Illicit trafficking of stolen goods**

There continues to be no evidence of illicit trafficking of stolen goods into or out of the Cook Islands. No case has been reported to the Police or Customs and no related STR received by the FIU between 2011 and 2013. The threat presented remains to be **LOW**.

### **1.7 Corruption and bribery**

During the 2008 Assessment, two cases of corruption by Government Ministers were reported involving an insignificant amount of money. There was no report of corruption and bribery between 2011 and 2012. In 2013, one case of corruption and bribery was reported to the Police and the FIU involving a Minister of the Crown, which is still under investigation. The threat presented by corruption and bribery is **MEDIUM**.

### **1.8 Fraud**

A total of 10 fraud cases were investigated by the Police in 2012 and 13 in 2013 respectively. Also during the same period, two cases of structuring were reported to the Police in 2012, and one in 2013. In 2013, the FIU received 9 STR's for fraud which six STR's are offshore related:

- 1 STR for Stock fraud
- 2 STRs for Customer Due Diligence fraud
- 2 STRs for Bank fraud
- 3 STRs for tax fraud
- 1 STRs for email fraud<sup>xvi</sup>

Four of the 9 STR's were successfully investigated and prosecuted domestically where one STR was successfully investigated and prosecuted abroad. The remaining STR's are still pending. The threat presented by domestic Fraud in the Cook Islands is **LOW**, however fraud committed abroad is **HIGH**.

### **1.9 Counterfeiting currency**

There continues to be no evidence of counterfeiting currency in the Cook Islands. No case has been reported to

the Police and no STR's received by the FIU between 2011 and 2013. There has been no change since the 2008 Assessment and the threat presented remains to be **LOW**.

### **1.10 Counterfeiting and piracy of Products.**

There was no evidence of counterfeiting and piracy of products during the 2008 Assessment. In 2011 there were two cases relating to piracy of products investigated by the Police and prosecuted. The amount of proceeds generated from the sales of illegally copied movies was unknown. There was no report received by the Police for counterfeiting and piracy of products in 2012 and 2013 respectively. The threat presented remains **LOW**.

### **1.11 Environmental Crimes<sup>xvii</sup>**

There was no adverse reference to high levels of illegal fishing reported during the 2008 Assessment. In 2011, there were four cases of illegal fishing investigated by the Ministry of Marine Resources (MMR) where the vessels were issued a total monetary fine of \$2,1million. In 2012, there were three cases investigated and the vessels were issued a total monetary fine of \$191,400 for fishing in enclosed areas (settlement fine and part of the catch). In 2013, two cases were investigated where one vessel was fined \$155,418 for fishing in an enclosed area, and one vessel issued with a warning. Between 2011 and 2013, the total amount of the proceeds generated from the illegal fishing activities was \$20,218.00 where the total sum of \$2.4million relates to monetary fines.

The level of threat presented is **MEDIUM**.

### **1.12 Murder**

There was no adverse reference to murder or manslaughter during the 2008 Assessment. In 2012 the Police investigated and prosecuted one case of manslaughter and one other case in 2013 respectively. The threat presented remains to be **LOW**.

### **1.13 Robbery/ Theft**

During the 2008 Assessment, there was only one case of theft where the amount involved was \$10,000. In 2011, the Police received a total of 240 reports of burglary and 320 reports of theft. In 2012, 387 reports of burglary and 261 reports of theft were recorded, and in 2013, 324 reports of burglary and 259 reports of theft were received by the Police. There was one case of cyber theft recorded in 2012. The total amount of the proceeds generated from the burglaries or thefts between 2011 and 2012 were not available. Burglaries and thefts remain to be the most prevailing domestic crimes in the Cook Islands which the intent was for personal gain. The threat presented remains to be **MEDIUM**.

### **1.14 Smuggling**

During the 2008 Assessment there was no adverse reference to smuggling. Between 2011 and 2013, there were five cases of smuggling of prohibited goods reported to the Police and no related STR's were received by the FIU. The Cook Islands Customs Service apprehended one individual at the border in 2012 for the smuggling of cannabis and he was convicted and

jailed in 2013. The level of threat presented is **LOW**.

#### **1.15 Extortion**

There continues to be no evidence of extortion problems in the Cook Islands. No cases have been reported to the Police and no STR's received by the FIU between 2011 and 2013. There has been no change since the 2008 Assessment and the threat presented therefore remains to be **LOW**.

#### **1.16 Forgery**

There was no adverse reference to forgery in the 2008 Assessment. There was no forgery recorded by the Police in 2011 and 2012 respectively, and only one case was reported to the Police in 2013. There was no specific STR's relating to forgery received by the FIU. The threat presented remains to be **LOW**.

#### **1.17 Piracy**

There continues to be no evidence of piracy problems in the Cook Islands. No cases have been reported to the Police and no STR's received by the FIU between 2011 and 2013. There has been no change since the 2008 Assessment and the threat presented therefore remains to be **LOW**.

#### **1.18 Insider trading and market manipulation**

There continues to be no evidence of insider trading or market manipulation problems in the Cook Islands. There is no Public Stock Exchange in the Cook Islands. No cases have been reported to the Police and no STR's received by the FIU between 2011 and 2013.

There has been no change since the 2008 Assessment and the threat presented therefore remains to be **LOW**.

#### **1.19 Tax and Excise evasion<sup>xviii</sup>**

Tax and Excise evasion did not form part of the 2008 Assessment. Between 2011 and 2013, a total of 12 cases of tax evasion were investigated by the Revenue Management Division, and three cases were prosecuted. A total of 14 enforcement actions were undertaken during the same period with 131 warning letters issued and 20 flight bans issued to prevent taxpayers from absconding overseas without paying their tax. In 2011, a total sum of \$124,395.00, \$741,625.00 in 2012, and \$1,359,100.00 in 2013 were recorded as proceeds from tax evasion during the period. The domestic threat presented is **LOW**.

#### **1.20 illegal gambling**

There continues to be no evidence of illegal gambling problems in the Cook Islands. There are no casinos or licensed betting shops in the Cook Islands. No cases have been reported to the Police and no STR's received by the FIU between 2011 and 2013. There has been no change since the 2008 Assessment and the threat presented therefore remains to be **LOW**.

#### **1.21 Money Laundering**

There have been no prosecutions for money laundering in the Cook Islands between 2011 and 2013, and since the 2008 Assessment. A money laundering charge was withdrawn for one case in 2012. There were potential

predicate offences where money laundering could have been pursued. There has been insignificant change since the 2008 Risk Assessment and the threat presented is **MEDIUM**.

### 1.22 *Terrorism Financing*

There continues to be no evidence of terrorism financing, terrorist act or terrorist groups operating in the Cook Islands. No cases have been reported to the Police and no STR's received by the FIU between 2011 and 2013. There has been no change since the 2008 Assessment and the threat presented therefore remains to be **LOW**.

## 2. **Proceeds of Crime**

Proceeds of crime is where "property" (including money and all other property, real or personal, whether situated in the Cook

Islands or elsewhere, including an enforceable right of action and other intangible or incorporeal property), into which any property or realised directly from a serious offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realised from such property at any time since the commission of an offence, whether the property is situated in the Cook Islands or elsewhere.<sup>xix</sup>

### 2.1 **Amounts of proceeds of crime generated domestically.**

Statistical record for the total amount of proceeds generated from domestic predicate crimes for the period of 2011

to 2013 has not been fully maintained by the relevant authorities.

The FIU restrained the total sum of \$145,000 in 2011 as proceeds from a series of 11 structuring offences which \$86,000.00 was recovered and paid to the Crown and \$11,000.00 paid to the Ministry of Justice as a monetary fine for the structuring offences.

In 2012, the FIU referred and assisted the Police on the following cases:

- A drug related case where an unexplained cash deposit of \$10,400 was identified. The defendant was convicted for drugs offence but funds was not restrained and forfeited;
- A theft case for a total sum of \$27,000. The defendant was convicted;
- Structured transactions case for a total sum of \$97,000. The individual was warned.

In 2013, the FIU referred and assisted the Police on the following cases:

- A corruption case for the total sum of \$250,000 which is still under investigation;
- A theft and false accounting case for a total sum of \$176,000 which was successfully prosecuted;
- A theft case for the total sum of \$10,500 which was successfully prosecuted;
- A structuring case for the total sum of \$49,500 which is still under investigation.

The threat presented is **MEDIUM**.

## 2.2 Physical cross-border inflows and outflows of the proceeds of crime.

There is no case recorded of any proceeds generated from crimes being physically moved across the borders of the Cook Islands.

In 2011, the FIU received 10 inbound border currency reports from the Customs Service for the total value of \$148,895.47, and one outbound report for the total value of \$140,000.00.<sup>xx</sup>

In 2012, the FIU received five inbound border currency reports from the Cook Islands Customs Service for the total value of \$125,195.39, and nine outbound reports for the total value of \$419,974.50.

In 2013, the FIU received eight inbound border currency reports from the Cook Islands Customs Service for the total value of \$162,269.06 and 12 outbound reports for the total value of \$405,265.05.

This indicates that there is more outward movement of cash across the border of the Cook Islands. Over the three year period, the total sum of \$965,239.55 in cash was moved out across the border with a total sum of \$436,359.92 in cash being brought into the Cook Islands.

There was one STR for undeclared cash in foreign currency (AUD 19,800 and USD 3,800) exceeding the reportable threshold amount of \$10,000.00 in 2012 by an inbound passenger, when an attempt was made to exchange the cash into NZ dollars at a local bank. The cash was not proceeds from crime and therefore was not forfeited. The cash was to purchase pearls in the Northern Islands of the Cook Islands.

The detection of unreported cross border movement of currency is still a challenge for Border Protection Authorities. The threat presented is **LOW**.

## 2.3 Amounts of proceeds of crime generated abroad and laundered domestically.<sup>xxi</sup>

In 2011, a total sum of USD 12 million from tax fraud and USD 1.7 million for unlawful importation, manufacturing and distribution of controlled substance, and money laundering, was recorded as proceeds generated from crimes committed abroad, and were laundered through some international trusts and companies.

In 2012, the FIU froze the sum of USD 1.2 million which is the proceeds generated from a fraud which was detected when fraudulent documents were used to open a company account with a bank in the Cook Islands.

In 2013, a total sum of USD 53 million was generated from securities fraud abroad where USD 9.9 million was laundered through an international company in the Cook Islands. The USD 9.9 million was repatriated back to the requesting country upon Court settlement. In the same year the sum of USD 6.04 million from a fraud committed abroad was also laundered into an international trust, and the same was repatriated back to the requesting country by consent of the account holder.

Other proceeds from fraud for the sum of USD 2.6 million were also laundered through an international company destined for another jurisdiction. The

Cook Islands through the Crown Law Office and the Police responded by executing court orders to obtain tracking documents for evidence to assist with the foreign investigation.

During the three year period, the Cook Islands also acted on several mutual legal assistance requests to execute production orders, or orders to take evidence to assist with a foreign investigation. The threat presented is **HIGH**.

#### 2.4 Sources, location, and concentration of criminal activity, including within illegal underground areas in the economy.<sup>xxii</sup>

Regional Law Enforcement organisations for a number of years have reported that OCGs and networks are seeking to gain access to the affluent markets in Australia, New Zealand and North America, and have become entrenched in a number of Pacific Island Countries (PICs). These OCGs have been linked to a number of serious offences such as murder, kidnapping, extortion, drug trafficking, money laundering, human smuggling/trafficking, commercial investment and trade based fraud, firearms trafficking, illegal wildlife/resource extraction, corruption of officials, unregulated fishing, tax evasion, cybercrime, prostitution and illegal gambling.

Asian OCGs pose the greatest threat to the region due to their well established relationships and successful infiltration of business entities operating in a number of PICs, in particular in the import, export, retail,

wholesale, shipping, logging and fisheries sectors.

However, during the period of the assessment, there was no evidence of any OCG's operating in the Cook Islands.

There is also no evidence of any illegal underground activities taking place in the Cook Islands. Burglary and theft continue to be dominant crimes targeting tourist accommodation and commercial entities across the main island of Rarotonga. The threat presented is **LOW**.

#### 2.5 Nature and extent of terrorist activities in neighbouring countries.

There has been no clear evidence of any terrorist activities taking place in neighbouring countries bordering the Cook Islands, and neither any confirmed evidence of terrorism financing. The threat is therefore **LOW**.

#### 2.6 Nature and extent of organised groups in neighbouring countries.

There is evidence that organised crime groups are operating in neighbouring countries, but there is no evidence that the same or similar groups are operating in the Cook Islands. The threat is **LOW**.

### 3. Country Environment:

Money launderer's and those financing terrorism activities will explore and exploit areas of weaknesses in any country to achieve their objectives. Therefore it is important that the political, social and economic sectors of the country are well aware of the risks, threats and the potential

harm that this may have, either economically or to the reputation of the Cook Islands.

### 3.1 Political Environment:<sup>xxiii</sup>

On 17 November 1964 the New Zealand Parliament passed the Cook Islands Constitution Act. This was to come into force on a date requested by the Cook Islands legislature following general elections to be held in the Territory.

The first election was held on 20 April 1965, with resounding support for the proposed Constitution and self-government. On 26 July 1965 New Zealand passed the Cook Islands Constitution Amendment Act and the Cook Islands became a State in free association with New Zealand.

The free association agreement means:

- The Cook Islands Government has full Executive powers;
- The Cook Islands can make its own laws and New Zealand cannot make laws for the country unless authorised by the Cook Islands government;
- Cook Islanders keep New Zealand citizenship;
- The Cook Islands remains part of the Realm of New Zealand with Queen Elizabeth II as Head of State of the Cook Islands.

The members of Parliament are elected by secret ballot on a “first-past the post” universal suffrage system. In 1980-81 the Constitution was amended by redefining the constituencies, thus increasing the number of members of Parliament to 24. This was refined in 1991 when a constituency in Rarotonga was further divided into two, to give a 25 member-seat Parliament. The status quo remained until 2003 when the overseas constituency that was created

under the 1980-81 Constitution Amendment, was abolished.

The current Government was voted into power in November 2010 until Parliament was dissolved on the 6 April 2014, and called for a national election which was held on the 9 July 2014. Due to legal challenges the results of this election were still not conclusively decided upon at the time of writing this report. The Government has been reasonably stable and there was only one high level complaint of official corruption during the assessed period.

The legal system is based on the New Zealand law and English common law, and New Zealand Judges presides over high court cases that are outside of the jurisdiction of Justices of the Peace and court of appeal cases. The threat of vulnerability is **LOW**.

### 3.2 Defence:<sup>xxiv</sup>

The Cook Islands and New Zealand agreed as part of its defence cooperation programme in the early 1990s, and given the evolution of their free association relationship since 1965 to a defence policy based on international law and conventional diplomatic practice. It was agreed that it was appropriate to place military exercises on a more formal basis. This resulted in another Exchange of Letters constituting an agreement between the governments on arrangements for visits by the New Zealand Armed Forces.

This and other earlier agreements clearly reflected the fact that control over both external affairs and defence, rests entirely with the Cook Islands Government.

The Royal New Zealand Air Force maintains regular maritime patrols in Cook Islands waters as part of its commitment to

monitoring the Exclusive Economic Zones of the Cook Islands. The Royal New Zealand Navy resident representative works with the Cook Islands Police Services Maritime Section, providing technical skills to help maintain the police patrol boat Te Kukupa, which was donated by the Australian Royal Navy.

A Mutual Assistance Programme administered by the New Zealand Defence Force, supports the operation of the patrol boat and provides training in search and rescue, small arms use and diving. The threat of vulnerability is **LOW**.

### 3.3 Economic and Geographical Environment. <sup>xxv</sup>

The Cook Islands total population as enumerated in the 2011 Census of Population and Dwellings was 17,791, a reduction of 1,778 from the 2006 count. The working age population consists of 3,729 males, a decrease of 244, and 3,898 females, an increase of 151 from the 2006 count.

The population is ethnically Cook Islands Maori (Polynesian) 81.3% a reduction of 6.4%, part Cook Islands Maori 6.7%, an increase of 0.9%, and other 11.9%, an increase of 5.4% from the 2006 count. (Sep 2013). Official languages are English and Cook Islands Maori.

The Cook Islands is ranked 226 of 267 countries in the Central Intelligence Agency (CIA) Factbook 2014. The CIA Factbook provides information on the history, people, government, economy, geography, communications, transportation, military, and transnational issues for 267 world entities. Country comparisons are pre-sorted lists of data from selected *Factbook* data fields. Country ranking are generally given in descending order - highest to lowest

except for unemployment rate and inflation rate, which are in ascending - lowest to highest – order.

The CIA Factbook says “Like many other South Pacific island nations, the Cook Islands' economic development is hindered by the isolation of the country from foreign markets, the limited size of domestic markets, lack of natural resources, periodic devastation from natural disasters, and inadequate infrastructure. In recent years, the tourism sector of the Cook Islands was and continues to be the main economic contributor to the Cook Islands GDP. The Nominal GDP for the Cook Islands in 2012/2013 was \$390,020.00 with a growth rate of 5.2%. However, Real GDP for 2012/2013 was \$327,675.00 with a growth rate of 2.5%, with tourist arrivals recorded at 120,909.

The Cook Islands have 3,562 (2012) internet hosts an increase of 2,083 from 1,479 internet hosts in 2007.

There is one international airport and 8 inter island airports, of which two have paved runways. There are 1600 scheduled flights between the Cook Islands and New Zealand per annum; 104 to Papeete; 52 to Los Angeles; and 52 to Australia.

In 2013, 24 Cruise Ships visited the Cook Islands, 36 container ships, 41 tankers, 100 yachts, and 14 fishing boats which one is locally owned.

GDP at constant prices for the year 2013 was estimated at \$274.5 million with the Finance and Business Services industry showing a percentage contribution of 11.1% (\$30.5 million) over the same period to GDP. Compared to 2012 year, a percentage contribution of 13.1% (\$37.1 million) was experienced, a drop of 19.5% compared to a negative growth of 1.1% over the 2012 year.

There is 100% formal access to financial services in the Cook Islands. The very small scale of operations suggests that any large or unusual transaction will attract attention. The small and inter-connected community ensures that any unusual increase in wealth or income will attract attention. The small business community ensures that all the players are personally known to regulators and law enforcement agencies. Significant cash transactions are limited to normal banking of weekly business takings. Foreign currencies are not accepted in normal trading. Currency exchange operates for travellers going overseas or returning with foreign currencies.

There are numerous Christian Church and sports non-profit-oriented groups, and none are considered to be any threat. The vast majority only operate for domestic causes. There are no significant AML/CFT loopholes in neighbouring countries.

There are no obvious economic or geographical factors that indicate high ML/TF risks. The threat presented in the Cook Islands is therefore **LOW**.

### 3.4 Financial Sector<sup>xxvi</sup>

The financial sector of the Cook Islands is relatively small. There are four commercial banks. Two of which are branches of Australian banks, one is a Cook Island based bank, previously an international bank with no branches, and the last is a Government owned bank with 11 branches located on 11 of the outer Cook Islands. Insurers include one domestic general insurer (a category A licence), two offshore insurers (a category C licence) and one approved external insurer. For insurance intermediaries there are four agents, one broker and one manager. There is one money changer and remitter and a National Superannuation Fund. All financial institutions are licensed and supervised by the FSC for prudential requirements and

supervised by the FIU for AML/CFT requirements. All financial institutions are captured under the Financial Transactions Reporting Act 2004 and are subjected to an annual onsite examination by the FSC and the FIU. They are also required to comply with the customer identification and verification, record keeping, monitoring of business relationships and transactions, including the reporting of any cash transactions and electronic funds transfer over \$10,000 and suspicious transactions to the FIU.

In 2013, the Banking Sector accounted for a total of \$589 million in total assets and \$25.5 million in total earnings at 30 December 2013. The Cook Islands does not have a Central Bank and the four banks are subject to the interest rates either set by the Reserve Bank of their parent company, or set internationally by other banks. Since December 2009, with the introduction of the Banking Amendment Act, all banks in the Cook Islands are prohibited from operating without having a domestic license and consequently, a physical presence in the Cook Islands. The level of threat and vulnerability presented by the financial sector is **LOW** for domestic institutions. International finance sectors are vulnerable to misuse by criminals and the Cook Islands is no different, and therefore is rated **HIGH** for international institutions.

### 3.5 Geographic<sup>xxvii</sup>

The total non-resident customers account for 13% of the total customers for Banks, whom are mainly Cook Islanders who have moved abroad to New Zealand and Australia for employment opportunities and other personal or family reasons.

However, customer transactions takes place with almost all countries around the world except where there are sanctions by the

FATF or by any recognized international organization. Banks in the Cook Islands are required to undertake appropriate measures when transacting with countries of concern. The level of threat and vulnerability is **LOW** for domestic transactions and **HIGH** for international transactions.

### 3.6 Customer<sup>xxviii</sup>

Bank customers totalled 23,026 in 2013 of which 10,748 were domestic customers and 3,027<sup>5</sup> were non-resident customers. The types of products and services amongst the four banks varies from savings deposits, term deposits, cheque accounts, loans, foreign exchange, international transfers, bank drafts, multi-currency accounts, precious metals accounts and investment accounts.

The offshore sector accounts for a total of 4021<sup>6</sup> customers whom are mainly residents of the United States.

Risk-based supervision is not yet applied in the Cook Islands therefore the full customer due diligence requirements is applied equally to both resident and non-resident customers. Enhanced measures have to be applied to politically exposed persons and other customers where their personal or business profile does not match with other data or information and transaction patterns, during the course of the business relationship with any of the reporting entities captured under the Financial Transactions Reporting Act 2004. The level of threat presented is **LOW** for domestic customers and **HIGH** for international customers.

### 3.7 Ownership Structures

Business structures for entities registered in the Cook Islands (domestic companies and

<sup>5</sup> Majority are Cook Islanders living abroad including foreign nationals.

<sup>6</sup> Total number of international companies and trusts registered with the Financial Supervisory Commission.

NPO's with the Ministry of Justice; international trusts and companies with the FSC; and foreign investments with BTIB) vary from a simple ownership structure to very complex structures with multiple layers of subsidiary trusts or companies, in particular for offshore sector customers. However, under the current AML/CFT regime and despite some legislative deficiencies, there are no exemptions provided or for a simplified due diligence process. The beneficial owner or the natural person(s) behind any company or trust are required to be identified and verified, and where it applies, also any beneficiaries. The threat and vulnerability presented is **LOW** for domestic business structures and **HIGH** for international trusts and companies.

### 3.8 DNFBP Sector<sup>xxix</sup>

The Cook Islands Offshore Sector was established in 1981 with steady growth until after 2000 when there was a constant decline due to adverse publicity from the black-listing of the Cook Islands by the Financial Action Task Force, and the increased regulatory requirements imposed by the wake of outside pressure from various international organisations. There are six Trustee Companies in the Cook Islands and we remain an international leader in providing asset protection trusts. Trustee Companies generated approximately about \$8 million in total revenue in 2013, and contributes to government revenue by way of fees paid to the FSC. The Sector is also well supervised by the FSC and the FIU with annual onsite examinations for AML/CFT requirements. The level of threat and vulnerability presented by this sector is **HIGH**.

The remainder of the Designated Non-Financial Business and Professions sector is relatively very small and includes 6 law firms, 10 accountants, 4 real estate agents, 4 motor vehicle dealers, 1 money transfer service

provider and 20 pearl dealers. However, some law and accounting firms do not fall within the definition of a “Reporting Institution” as provided by the Financial Transactions Reporting Act 2004 in that they are not involved in preparing or carrying out transactions for clients in relation to:

- buying and selling real estates;
- management of client money, securities or other assets;
- management of bank accounts; or
- buying and selling of business entities.

There are no casinos or betting shops within the Cook Islands. The annual total revenue generated from this sector is unknown and not centrally collected or maintained. However, the sector is subject to an annual examination by the FIU for AML/CFT requirements. The level of threat and vulnerability presented is **LOW**.

### 3.9 Non-Profit Organisation Sector<sup>xxx</sup>

The Cook Islands Civil Society Organisation is the umbrella body of Non-Profit Organisations (NPO) in the Cook Islands. In 2013, a total of 33 new incorporated societies were registered with the Ministry of Justice. There still remains to be a significant number of Christian and sports organisations that are not registered as an incorporated society. There is a very small number of NPO’s that is a branch or member of renowned international organisations, and who are recipient of external funding from its parent organisation. However, a significant number of NPO’s are mostly run for local causes with little or insignificant transaction amounts. The FIU in 2012 delivered awareness training to NPO’s regarding the requirements of the Financial Transaction Reporting Act 2004 and cross border declaration of currency. Some NPO’s has been subjected to an AML/CFT examination by the FIU. The level of threat and vulnerability presented is **LOW**.

## 4. Key Agencies<sup>xxxxi</sup>

### 4.1 Crown Law Office

The Crown Law Office (CLO) is responsible for prosecuting matters on behalf of the Crown. It is also responsible for the administration of the Terrorism Suppression Act 2004, the Proceeds of Crime Act 2004 and the Mutual Assistance in Criminal Matters Act 2004. However, the implementation agency is the Cook Islands Police. The CLO is staffed by nine people; the Solicitor General, five Counsels, and three administration staff. The CLO in 2011 received 5 foreign requests for mutual legal assistance. Three requests resulted in successful applications to the Court for production of property tracking documents, two of those also resulted in successful orders to take evidence, and no further action was required to two of the requests. In 2012, only 1 foreign request was received to serve documents on to a local entity. In 2013, three foreign requests were received resulting in two successful applications to the court for production of property tracking documents and one successful application to the court for a restraining order. Of those three cases two resulted in the restraining and repatriation of a total of USD 6.04 million by agreement.

The CLO in 2011 submitted 2 requests to a foreign jurisdiction to obtain documents relating to a structuring investigation by the FIU and the Police, which was successfully concluded. In 2013, the CLO also submitted a request to two foreign jurisdictions to obtain information relating to a current investigation by the FIU and the Police. The level of vulnerability presented is **LOW**.

### 4.2 Financial Intelligence Unit

The FIU merged with the Financial Supervisory Commission as an independent

specialised unit as of 1 July 2012, after being an independent unit of the Government since its establishment in late 2002. The FIU is staffed by five people, the Head of FIU, two Intelligence Officers and two Compliance Officers. It has adequate resources to fully and effectively perform its functions under the Financial Transactions Reporting Act 2004. The FIU also participates actively as a member on the Combined Law Agency Group, the Cook Islands National Intelligence Unit and the Anti-Corruption Committee. The Head of FIU also chairs the AML/CFT Coordinating Committee. The FIU is responsible for administering the Financial Transactions Reporting Act 2004, and parts of the Proceeds of Crimes Act 2003.

Between 2011 and 2013, the FIU received 36 STR's in 2011; 52 in 2012 and 51 in 2013, a total of 139 over the three year period. Of the 139 STR's, 41 were disseminated to domestic law enforcement agencies and to foreign counter-part FIU's. The banks remain the main reporters of STR's followed by the trustee companies. The FIU has worked and continues to work on some drug, fraud and corruption cases with the Police. The FIU is also the repository of reports of cash transactions and electronic funds transfers over the threshold amount of \$10,000.

A new FIU Bill which is currently with Cabinet will provide the FIU with further investigative powers to investigate financial misconducts and enhance its operational effectiveness. While trends and typologies are strategically analysed, they are yet to be formally documented but will be commencing 2015. The level of vulnerability presented is **LOW**.

#### **4.3 Cook Islands Police Service**

The Cook Islands Police (CIPS) is responsible for maintaining law and order in the Cook Islands which includes the surveillance of the country's Exclusive

Economic Zone. The CIPS comprises of 115 officers which 97 are sworn and 18 non-sworn officers. The Meteorological Service staff members that were part of the Police were relocated to another ministry in 2011. The Criminal Investigation Branch (CIB) of the CIPS is the specialised group that has responsibility for the investigation of all serious offences, drugs and financial crimes, including ML/TF and proceeds of crime investigations. The CIB has a total of 14 officers that have experience with the investigation of serious financial crimes. The CIPS often has called upon the assistance of the New Zealand Serious Fraud Office, or the New Zealand Police, to assist in complex financial crime investigations. Nominated officers of the CIPS chair the Combined Law Agency Group and the Cook Islands National Intelligence Unit. The CIPS and the FIU has established a good working relationship on recent drug, fraud and corruption cases. However capacity and capability issues within the CIPS were identified as a contributing factor to the lack of a money laundering investigation or proceeds of crime investigation. The level of vulnerability presented is **MEDIUM**.

#### **4.4 Cook Islands Customs Service**

The Customs Service is contained within the Revenue Management Division of the Ministry of Finance and Economic Management. The primary focuses for Customs is on border revenue collection of import duties and VAT and on border security. The role of border security includes the control on the movements of crafts, both passenger and cargo. The Comptroller of Customs is also the Treasurer with the responsibilities for Customs and Inland Revenue. The Cook Islands Customs Service (CICS) is staffed by a Chief Customs Officer and 11 full time staff comprising of 1 Legal Counsel, 9 officers on Rarotonga and 1 on Aitutaki. There are 24 part-time Customs Officers. There was no significant economic and geographical AML/CFT issue raised in

the 2008 Assessment and it continues to be the same for this assessment.

Between 2011 and 2013, the CICS:

- Investigated 10 cases;
- Prosecuted 5 cases;
- Received 33 Border Currency Reports; and
- Received 68 Border Notifications.

The CICS also applied the following enforcement actions resulting from cargo examinations:

- Airfreight – 178
- Sea freight – 131
- Parcel Post – 473
- Detained Goods – 662
- Seized Goods – 13

The Cook Islands moved from the manual processing of passengers at the Rarotonga International Airport to an automated system in 2010. The Cook Islands have four direct air routes to and from Auckland, Sydney, Los Angeles and Papeete. The business sector imports goods from 65 countries, including a country of high risk that was publicly listed by the FATF, and from six countries that have weak AML/CFT systems. The level of vulnerability presented is **LOW**.

#### **4.5 Department of Inland Revenue**

The Inland Revenue is contained within the Revenue Management Division of the Ministry of Finance and Economic Management and operates collaboratively with the Customs Service. It is staffed by 22 people and any serious matter for investigation or for referral for prosecution will be approved by the Treasurer (or Collector). Between 2011 and 2013 the Inland Revenue investigated 12 cases of tax evasion and prosecuted 3 cases. A total of 14 enforcement actions were undertaken with 131 warning letters issued and 20 flight bans issued to prevent overseas travel until

settlement of tax obligations. The level of vulnerability presented is **LOW**.

#### **4.6 Ministry of Foreign Affairs**

The Ministry of Foreign Affairs (MoFA) is staffed by 14 members and it is responsible to advise Government on foreign and trade policy issues, foreign policy, an international treaties. It is also tasked to identify and gain an understand international trends, opportunities and risks that may impact the Cook Islands and offer advice on how to protect and advance the interest of the Cook Islands. The MoFA is the contact office to receive or disseminate foreign mutual legal assistance request for ML/TF matters, proceeds of crime investigation and extradition matters under the Mutual Assistance in Criminal Matters Act 2003, the Proceeds of Crimes Act 2003 and the Extradition Act 2003 respectively. Requests may include evidence gathering, witness interviewing or obtaining property tracking documents for and on behalf of foreign law enforcement agencies. The MoFA also receives the United Nation Security Council sanctions list<sup>7</sup> for further distribution to the relevant agencies and entities for appropriate action to be implemented. The Cook Islands acceded to the United Nations Convention Against Corruption on 17 October 2011. The level of vulnerability presented is **LOW**.

#### **4.7 Cook Islands Immigration**

Immigration is a Division within the Ministry of Foreign Affairs and is staffed by six people; the Acting Principal for Immigration, three Border Control Supervisors and two Client Service Staffs. The role of Immigration is to ensure that the borders of the Cook Islands are protected by effectively screening the entry and departure of people to and from the Cook Islands. It is responsible for issuing

<sup>7</sup> The Al-Qaida 1267 Consolidated List – [www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).

resident permits, work permits and visitor permits. In 2011, a total of 948 Work Permits were issued; 272 Resident Permits and 603 Visitor Permits respectively. In 2012, a total of 925 Work Permits were issued; 203 Resident Permits and 411 Visitor Permits. In 2013 a total of 1013 Work Permits were issued; 219 Resident Permits and 507 Visitor Permits. The total number of work permits issued for foreign workers dropped from 948 to 925 between 2011 and 2012, but there was an increase of 88 (9%) of new work permits issued in 2013 for foreign workers. In the same year (2013), the Department of Immigration worked on 76 cases which 60 related to work permits; 12 related to visitor permits; 4 related to resident permits; 1 related to entry permit and 1 stowaway case. Of the 76 cases, 44 remained outstanding while 24 were cleared by other means and 10 departed voluntarily. There has been no prosecution by the Department of Immigration. Data and information maintenance at the Immigration is significantly still in manual form. The level of vulnerability presented is **LOW**.

#### **4.8 Ministry of Marine Resources**

The Ministry of Marine Resources is responsible for the administration of and the sustainable development and utilisation of marine resources in the Cook Islands. It is also responsible for the registry of all domestic and foreign fishing ventures in the Cook Islands. The Ministry is staffed by 51 employees both on Rarotonga and the Outer Islands, 40 are permanent staff, 1 temporary, 5 part-time and 5 staff on contract.

The Ministry's History and Significant Changes (2010-2013):

- Catches from the offshore fisheries sector have gone from 3,000 tonnes and 27 licensed vessels in 2005 to 21,000 tonnes and 78 vessels in 2011/12, therefore establishing a

significant "catch history" for the Cook Islands zone.

- Total Revenue on Behalf of the Crown (ROBOC) has increased from \$420,000 in 2006 to \$3.7 million in 2010/11. Within the ROBOC the component for licensing revenue has increased from \$93,000 to \$3.2 million in 2012/13. In 2012/13 the ROBOC is projected to peak at \$5.1 million due to higher license fees, increased skipjack tuna catches and the designation of the big eye tuna fishery.
- MMR has developed significant in-house capacity for developing regulations to strengthen its fisheries management regime. For example: Marine Resources (Large Pelagic Longline Fishery) Regulations 2012 and Marine Resources (Licensing) Regulations 2012 repealed the Marine Resources (Large Pelagic Longlinet Fishery) Order 2011 and Marine Resources (Licensing and Regulation of Fishing Vessels) Regulations 1995 respectively.
- Significant prosecutions under the Marine Resources Act 2005 and financial settlements for illegal fishing using the Western and Central Pacific Fisheries Commission (WCPFC) process have taken place.
- Maritime surveillance assets and agreements with defence partners are resulting in highly sophisticated fisheries patrols taking place within the Cook Islands Exclusive Economic Zone (EEZ).
- The Territorial Seas and Exclusive Economic Zone Act 1977 (TSEEZ Act) established the 12 and 200 nautical mile maritime zones for the Cook Islands, enabling the Cook Islands to exercise its sovereignty over its marine resources. While the 2012 Amendment established a 'Contiguous' zone

adjacent to the 12nm Territorial Seas, which now enables the Cook Islands to exercise its' sovereign rights to make provisions for customs, immigration, fiscal and sanitary laws and regulations and extends its jurisdiction in regards to those out to 24 nautical miles.

- Cabinet approved the establishment of a Fisheries Development Facility to direct licensing revenue to support fishing clubs and artisanal fishers. This is a significant policy shift in that a direct contribution from the fishing licenses can be returned to support the local fishing sector.
- Significant increase in export of tuna products out of Rarotonga has begun to occur after a spike in 2005.
- MMR human resource levels are at its highest ever, reflecting the diverse and expanded work programs, with 40 fulltime, 1 temporary and 5 part-time public servants, 5 contractors and a pool of six Samoan based MMR fisheries observers.
- The Cook Islands Fisheries Field Office (CIFFO) was established during 2012 -2013 with operational functions starting in 2014. This has enabled MMR to strengthen its Monitoring and Compliance commitments with the WCPFC by conducting observer placements and debriefings, Boarding and inspections on Cook Island Licensed vessels, port-sampling for catch verification and scientific data collection.

The level of vulnerability presented is **MEDIUM**.

#### 4.9 *Office of the Ombudsman*

The Ombudsman is an independent and impartial officer responsible to Parliament, established under the

Ombudsman Act 1984. The Ombudsman's Office is presently resourced with 5 staff; the Ombudsman, Assistant Ombudsman, 2 Senior Investigating Officers and an office administrator.

The role of the Ombudsman is:

- To investigate complaints received under the Ombudsman Act 1984 and the administrative acts and decisions of government ministries and crown agencies scheduled in the Act.
- To investigate complaints received under the Official Information Act 2008, regarding the acts and decisions of government ministries and crown agencies, including island councils with respect to requests for official information.
- Investigate complaints received under the Disability Act 2008 about an unlawful discrimination in respect of a person (s) with disability
- To investigate and review acts and decisions of the Ministry of Police pursuant to the Police Act 2012.

Although the office receives more complaints relating to maladministration under the Ombudsman Act, it has seen a steady increase in the number of complaints under the Official Information Act (OIA) since its passing in 2008. The office anticipates a further increase as more and more people become aware of their rights under the OIA. Since its passing in December 2012, there have also been steady increases in the number of complaints against the Police. The Ombudsman's jurisdiction with regard to Police complaints is very similar to the powers of the Independent Police Complaints Authority in New Zealand.

The Ombudsman Act provides where in the course of his investigation the Ombudsman

discovers an element of criminal act, the matter is to be referred to Police for prosecution. The Ombudsman has referred one case to the Police for prosecution relating to an allegation of an assault by a Police Officer. The officer was prosecuted, convicted and dismissed from the Police Service. The level of vulnerability presented is **LOW**.

#### **4.10 Ministry of Justice**

The Ministry of Justice is responsible for administering the Courts of the Cook Islands, including the main repository of land records, birth, death and marriage records, land trust funds and the domestic company registry. The Ministry is staffed by a total of 60 people but the corporate registry is staffed by 3 staff members. In 2011, 71 new companies were registered and 99 were deregistered for non-compliance with the Companies Act 1970-71. In 2012, 77 new companies were registered and 94 were deregistered, and in 2013, 90 new companies were registered and 87 were deregistered respectively. Also during the same period, in 2011, 26 new Incorporated Societies were registered with an additional 27 new Societies registered in 2012. The Companies Amendment Act 2013 was enacted to allow the Ministry of Justice to introduce a digital register of private companies and to amend the Companies Act 1970-71 to modernize and simplify the structure of a private company and to allow the cost-effective introduction of a digital register of private companies.

Between 2011 and 2012, a total of 55 Societies were deregistered for non-compliance with the Incorporated Societies Act 1994. In 2013, a total of 33 new Societies were registered. The level of vulnerability presented is **LOW**.

#### **4.11 Business Trade and Investment Board**

The Business Trade Investment Board (BTIB) is an Independent Agency of the Government responsible for investment promotion and facilitation, including as a one stop shop for foreign enterprise registration in the Cook Islands. The BTIB is staffed by 10 people, and the Chief Executive Officer is responsible to the BTIB Board. Any matter of a serious nature that may be investigated will be undertaken by the Compliance Officer, together with the Manager Foreign Investment and Compliance. Between 2011 and 2013, the BTIB registered 16 Foreign Enterprises in 2011, 29 in 2012 and 48 in 2013. Also during the same period, in 2011 one company license was revoked, one was deregistered and one license expired. In 2012 two enterprises were deregistered and both licenses expired. In 2013, one license was revoked, four were deregistered and two expired.

A lot of the revocations took place in 2010 following a review of the register. The BTIB is currently repeating that process and possibly about 50 licences may be revoked this year. The expired category of licence started in 2011 where the approval has an expiry date based on a project having a distinct period of existence.

There have been no investigations against any registered foreign enterprises during the three years from 2011 to 2013. However there are two current investigations against foreigners allegedly for breaching the registration requirements. The level of vulnerability presented is **LOW**.

#### **4.12. Financial Supervisory Commission**

The FSC is the sole prudential regulator of the financial sector in the Cook Islands. It is

staffed by a Commissioner, Deputy Commissioner, 3 Supervision staffs, a Registrar, a Finance Manager and one administration staff. The FSC is mandated to regulate, supervise and license banks (4), trustee companies (6), insurers (4), insurance intermediaries (6), and a money changer and remitter (1). The FSC is also responsible for the registration of international trusts (2,575), international companies (1,053), foreign companies (24), international partnerships (4), limited liability companies (362) and foundations (3), the figures dated as of 31 December 2013.

During the 2011 and the 2013 period, the FSC imposed administrative fines against registered entities for the late submission of documents or for registrations outside of the statutory requirements, to the total value of \$40,785 in 2011, \$46,787 in 2012, and \$39,177 in 2013 respectively. The level of vulnerability presented is **LOW**.

## SECTION 2 – RISK ANALYSIS:

A risk assessment form was used to analyse the risk identified, description, number of cases reported, its probability of occurrence, impact, mitigation strategy, additional measure and any contingency plan to mitigate the identified risk, and is attached as Annex 1. In the same attachment, another spread sheet contains an analysis of all entities that are captured as a reporting entity under the Financial Transactions Reporting Act 2004, which could potentially be used or abused by criminals to facilitate the laundering of their illegal proceeds or to disguise, hide, conceal or commingle illegitimate proceeds in legitimate funds.

### 1. Risk

The level of the money laundering risk in contrast to the overall crime environment in the Cook Islands remains **LOW**. Illicit trafficking of drugs, illegal fishing, theft and corruption are emerging associated risks of

money laundering and therefore are rated **MEDIUM**. There is no evidence of terrorism financing or proliferation or the financing of weapons of mass destruction through the Cook Islands. However, crime activities committed abroad presented a **HIGH** threat of associated money laundering risks mainly through fraud.

### 2. Threat

There is no evidence of any organised crime groups or terrorist groups operating in the Cook Islands and neither any evidence of any suspected financing of any organised crime group or terrorism financing through any financial institution or DNFBP in the Cook Islands. However the transnational threat of money laundering through the international or offshore sector of the Cook Islands presents a **HIGH** level of threat.

### 3. Vulnerability

All financial institutions and DNFBP's are well supervised by the Financial Intelligence Unit for AML/CFT requirements, and jointly with the Financial Supervisory Commission when undertaking AML/CFT examinations of Banks and Trustee Companies. While the offshore sector of the Cook Islands is rated as **HIGH** risk, the effective supervision of the sector reduces the level of vulnerability to **MEDIUM**, and the domestic sectors remains to be **LOW**.

Most key agencies involved in the implementation of the Cook Islands AML/CFT regime face resourcing issues and challenge which impacts on the overall effectiveness of prevention, detection, investigation and prosecution of money laundering and related predicate crimes in the Cook Islands. The lack of domestic proceeds of crime actions for predicate crimes by some law enforcement agencies, tends to increase the level of vulnerability to **MEDIUM**. However, the overall level of vulnerability amongst key

agencies is rated **LOW** with only one agency being rated **MEDIUM**.

#### 4. Consequence

The overall impact or consequence of money laundering domestically is rated **LOW**. The level of threat in the offshore sector is rated **HIGH**, and while there has been no indication of any financial or economic impact on the Cook Islands, this may present an avenue for adverse perception and reputational impact from the international community. This is especially since there has been no investigation and prosecution of money laundering offences in the Cook Islands.

The supervisory oversight of the financial sector for AML/CFT compliance however has been viewed by stakeholders as increasing the cost of compliance and over-regulating, but it has reduced the level of vulnerability across the sector to **MEDIUM**. This increased cost to doing business has been challenging to the sector in attracting new business in recent years.

#### 5. Typologies

The main money laundering risks in the Cook Islands are transnational exploitation of the offshore sector for the concealment of proceeds from crime or to use companies or trusts either to layer or as a transit vehicle, where the final destination is another jurisdiction. Cyber fraud is also another emerging threat of money laundering, targeting both offshore accounts and domestic accounts. There are a number of ways or methods how assets or funds generated from the proceeds of crimes can be laundered, and it is important to understand the following risks associated with a typology set out from the highest to the lowest risk.

##### 3.1 ELECTRONIC FUNDS TRANSFER – transferring proceeds of crime from one bank

to another via financial institutions or to facilitate a scam.

*Possible typology (specific)*

- Transfer to and from locations that have poor AML/CFT regime.
- Transfer from jurisdictions with no business rationale.
- Multiple transfers to one person from different people.
- Structuring of transactions under the reporting threshold.

Electronic funds Transfer	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Unlikely	Low

*The use of electronic funds transfers has been identified as one of the main services used to launder the proceeds from crimes committed abroad into the Cook Islands.*

*The current impact is rated **LOW** and the use of this service is unlikely to increase. However this will be subject to the level of regulatory oversight at the originating country in knowing its customer, nature of business and source of funds. The Cook Islands banking sector is well supervised although an unexpected small number of transactions may successfully infiltrate the financial system undetected.*

*The risk assessed is **LOW**.*

##### 3.2 WIRE TRANSFERS – transferring the proceeds of crime from one person to another via money remittance services or facilitate a scam.

*Possible indicators (specific)*

- Frequent cash payments for inward and outward transfer.
- Transfer to locations that have poor AML/CFT regime or higher exposure for scams.
- Transfers from jurisdictions with no business rationale.

Wire Transfer	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Medium	Unlikely	Low

The use of wire transfers through a remittance agent has been identified as one of the main services used to launder the proceeds from cyber fraud, in particular to jurisdictions where scam activities are of serious concern.

The current impact is rated **MEDIUM**, however the use of this service is unlikely to increase as the Agent is a subsidiary of a global company who have increase its compliance requirements in knowing its customer, monitoring of transactions including source of funds. The Cook Islands remittance sector is well supervised although an unexpected small number of transactions may successfully infiltrate the financial system undetected.

The risk assessed is **LOW**.

### 3.3 INTERNATIONAL TRUST AND COMPANIES – utilising other people or entity to carry out transactions, hold assets or as a transit vehicle on behalf of the owner.

Possible typologies (specific)

- Use of nominees
- Complex trust structures
- Account operated by a trustee other than the owner.
- Layering of transactions via trust and other associated multiple companies.
- Transactions from countries with poor AML/CFT regime.

International Trust & Company	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	HIGH	Likely	HIGH

The use of international trusts or companies through the offshore sector of the Cook Islands, has been identified as one of the main services or

product used to launder the proceeds from crimes committed abroad.

The current impact is rated **HIGH**, and the use of this service or product is likely to continue, but subject to the regulatory environment at the originating country in knowing its customer, nature of business, monitoring of transactions including source of funds. The Cook Islands offshore sector is well supervised although an unexpected small number of transactions may successfully infiltrate the financial system into international trusts and companies being undetected.

The risk assessed is **HIGH**.

### 3.4 CASH DEPOSITS – placement of cash deposit into the financial system.

Possible typologies (specific)

- Use of benefit bank accounts to launder suspected proceeds of crime.
- Use of personal accounts to deposit cash from business income.

Wire Transfer	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Likely	Low

Cash deposits using personal and child benefit accounts have been identified as one of the products offered by commercial banks in the Cook Islands that have been used to launder the illegal proceeds from drugs.

The current impact is rated **LOW**, however the use of this service is unlikely to increase as the banking sector have increase its compliance requirements in knowing its customer, monitoring of transactions including source of funds. The Cook Islands banking sector is well supervised although an unexpected small number of transactions may successfully infiltrate the financial system undetected.

The risk assessed is **LOW**.

### 3.5 STRUCTURING – deliberate making of a transaction (deposit, withdraw, transfer) under the reporting threshold to avoid a report being made by a bank.

*Possible typology (specific)*

- Multiple cash deposits placed in various accounts in one day, all under the reporting threshold.
- Multiple cash deposits made at different banks in one day under the reporting threshold.
- Wire transfers to other accounts or abroad under the reporting threshold.

Structuring	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Medium	Likely	Low

Structuring of cash deposits or when making funds transfers under the reporting threshold has been identified as one of the means used to launder the proceeds from drugs, and in some cases funds from legitimate income, to avoid a report being made to the FIU.

The current impact is rated **LOW**, and the use of this method is unlikely to increase as the banking sector have increase its compliance requirements in knowing its customer, monitoring of transactions including source of funds. The Cook Islands banking sector is well supervised to ensure compliance and minimise such activity.

The risk assessed is **LOW**.

**3.6 COMINGGLING** – combing proceeds of crime with legitimate business income.

*Possible typologies (specific)*

- Frequent cash deposits when business has EFTPOS facilities.
- Large number of accounts held by the customer.
- Use of savings accounts for business deposits.
- Use of Personal Account as a Trading Account.

Co-Mingling	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Likely	Low

Co-mingling of cash deposits with business income has been identified as one of the means used to launder the proceeds from drugs.

The current impact is rated **LOW**, and the use of this method is likely to increase as the banking sector have increase its compliance requirements in knowing its customer, monitoring of transactions including source of funds, and criminals finding the means to hide their illegally earned funds. The Cook Islands banking sector is well supervised to ensure compliance and minimise such activity.

The risk assessed is **LOW**.

**3.7 PURCHASE OF VALUABLE ASSETS**

– laundering proceeds of crime by purchasing valuable assets, for example property or vehicles.

- Purchase of real estate.
- Cash purchase of vehicles.
- Rapid cash repayment of hire purchased assets.

Purchase of Valuable Assets	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Unlikely	Low

Purchase of valuable assets has not been frequently used as a means to launder the proceeds from crimes. Proceeds are mainly used for personal and life style satisfaction.

The current impact is rated **LOW**, and the use of this method is likely to continue in particular for theft. However, the Cook Islands banking sector is well supervised to ensure compliance and minimise such activity.

The risk assessed is **LOW**.

**3.8 CASH COURIERS** – concealing the movement of currency from one jurisdiction to another using people, luggage, mail or any other mode shipment without declaration.

*Possible typology (specific)*

- Business people taking cash abroad to buy goods.

- Pearl dealers taking pearls abroad for sale.
- Inbound tourists bringing in cash.
- Business sending foreign currency for banking in another country.
- Inbound foreigners coming to buy pearls.

Trade base money laundering has not been effectively monitored and pursued.

The current impact is rated **LOW**, and the use of this method is likely to increase until focus on trade based activities are carefully monitored and actively investigated. The Customs Act 2012 provides Custom Officers sufficient powers to effectively address the situation. The risk assessed is **LOW**.

### 3.10 ABUSE OF NON-PROFIT ORGANISATION – raising funds to finance terrorism using non-profit organisations to conceal the source, nature of funds.

Possible typology (specific)

- Transfer to and from jurisdictions with poor AML/CFT regime.
- Transfer involving accounts located in high risk countries.
- Transfer to a known or suspected terrorist region.

Abuse of Non-Profit Organisation.	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Unlikely	Low

There has been no evidence of a Non Profit Organisations being used to launder any proceeds of crime or to finance terrorism.

The current impact is rated **LOW**, and the use of NPO's is unlikely as the main NPO's receiving funds from abroad or donating outside of the Cook Islands are associated with internationally well recognised organisations. The NPO sector is well supervised by the FIU. The risk assessed is **LOW**.

## SECTION 3 – EVALUATION:

Overall, the level of threat presented by the domestic crime environment for most predicate crimes is **LOW** except for drugs, theft and illegal fishing which are rated **MEDIUM**. Transnational fraud offending and

Cash Courier	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Likely	Low

Cross border movement of currency have not been effectively monitored and there is a heavy reliance on travellers to make a declaration. Pearls are yet to be captured for cross border reporting.

The current impact is rated **LOW**, and the use of this method is likely to continue. However, the new Currency Declaration Bill is expected to be passed in 2015 to give more powers to border authorities. The risk assessed is **LOW**.

### 3.9 TRADEBASE MONEY LAUNDERING

– manipulating invoices, often connected to international trade, by over or under stating the value of the shipment to provide an opportunity to launder the proceeds of crime.

Possible Typologies (specific)

- Invoice greater or lower than the actual value of the goods
- Discrepancies in domestic and foreign import/export data.
- Suspicious cargo movements.
- Discrepancies in information regarding the origin, description and value of the goods.

Trade-base Money Laundering	Current Impact	Likelihood of an increase	Assessed Risk
Money Laundering	Low	Likely	Low

having proceeds laundered into the offshore sector attracted a **HIGH** risk rating.

The level of vulnerability is generally **LOW** across key environment areas and key AML/CFT Agencies except for the Cook Islands Police Service and the Ministry of Marine Resources being rated as **MEDIUM**. This is due to their lack of or limited effective pursuance of money laundering investigations and prosecutions. Proceeds of crime actions are also limited including the forfeiture of tainted properties or instruments used in the commission of a crime.

Resource and capacity to respond to such investigations is a challenge across key agencies. Consideration to enhance information sharing and a multi-agency approach, or the establishment of a specialised unit may be explored. The Unit may consist of personnel from the key law enforcement agencies operating out of the Police, to be able to effectively combat any threat either transnational or domestic.

### 3.1 Conclusion:

The assessment and management of risk has to be approached with common sense and the recognition that some residual risk will always be present. In addition, responses to risk should be flexible and proportionate. Risk should be considered in this context, be it international or domestic; strategic or operational; criminal environment or business environment; a unifying national approach to mitigating such risk is critical, and must meet decision maker's needs. A valid and an up-to-date assessment will inform and assist this process and provide decision maker's with the information they need to prioritise interventions, apply targeting operations or multiagency approach to overcome limited resource challenges. It is safe to assume that a strong AML/CFT regulatory framework complemented by a strong operational drive in combating money laundering and terrorism

financing, reduces the prospect of organised criminals and terrorists exploiting the financial system of the Cook Islands.

Compliance with the new FATF 40 Recommendations<sup>xxxii</sup> enhances the Cook Islands reputation internationally and minimises the risk of money laundering and terrorism financing to the business community and society. In addition, this leads to a reduction in crime and making the Cook Islands a safer community.

## 3.2 Recommendations:

The following five general recommendations are aimed at improving collaboration and information management for future NRAs; addressing the national and transnational risks, including capacity challenges, faced by key law enforcement agencies:

### 1. National Coordination.

- Continued communication and collaboration between the key agencies for the development of the 2017 National Risk Assessment.
- Undertake an annual financial crime workshop to raise awareness across all key agencies of the nature and level of offending in the country, and identify areas of vulnerabilities, lessons learnt and efficiencies from case studies.
- Development of an annual Typologies Report.

### 2. Transnational Risk Mitigation.

- Apply a risk assessment process and risk based supervision to the offshore sector.
- Continue to support, cooperate and respond to any international requests regarding proceeds of crime actions, evidence gathering and related matters.

### **3. National Risk Mitigation.**

- Apply risk based supervision to other sectors in accordance with the risk identified in this NRA report.
- Where identified, actively pursue money laundering investigations and prosecutions.
- Where identified, actively pursue proceeds of crimes, including tainted properties or instruments used in the commission of crimes.
- Enhance collaboration and cooperation between law enforcement agencies to support multi-agency investigations.

### **4. Capacity Development.**

- Review current agency resourcing requirements against the additional responsibilities brought about by the revised FATF standards;
- Consider including money laundering, terrorism financing, and the proceeds of crime training into the Police Recruit training curriculum;
- Key Government Agencies to develop and submit annual reports to their relevant Minister which can be a key source for the development of the 2016 National Risk Assessment.
- Consider utilising available expertise across law enforcement agencies to enhance the investigation and prosecution of transnational crime, financial crimes, cyber-crime, drugs, corruption, illegal fishing, tax evasion, trade base money laundering, money laundering and proceeds of crime recovery.

### **5. Legislative Drafting**

- Secure appropriate legislative drafting assistance to complete pending legislative amendments.

### **Acknowledgement:**

The following people are the members of the National Risk Assessment Team who contributed to the writing of this report:

1. Mr. Andrew Haigh, Comptroller of Customs and Collector of Inland Revenue.
2. Mr. Philip Eyre, Senior Tax Advisor, Inland Revenue.
3. Ms. Catherine Evans, Senior Counsel, Crown Law Office.
4. Mrs. Mathilda Miria-Tairea, Director of Policy and Legal, Ministry of Marine Resources.
5. Mr. Rima Manavaikai, Senior Fisheries Officer, Licensing and Compliance, Ministry of Marine Resources.
6. Mr. Maeva Kirikava, Senior Sergeant, Prosecutor & CMIS Administrator, Cook Islands Police Service.
7. Mr. John Strickland, Inspector, Cook Islands Police Service.
8. Mrs Margaret Tangimetua, Senior Supervisor, Financial Supervisory Commission.
9. Mr. Teariki Vakalalabure, Manager Foreign Investment & Compliance, Business Trade and Investment Board.
10. Mr. Tearoa Tini, Ombudsman, Ombudsman's Office.
11. Mrs. Vasie Poila, Acting Director of Immigration, Ministry of Foreign Affairs & Immigration.
12. Mr. Tereroa Pumati, Compliance Officer, Ministry of Foreign Affairs & Immigration.
13. Mrs. June George, Intelligence Analyst, Financial Intelligence Unit.
14. Mr. Bob Williams, Chairman and NRA Team Coordinator.

A special acknowledgement is also extended to Mr Andrew Hill of the New Zealand FIU and the AML/CFT Committee for their professional assistance and contribution.

## INDEX

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Counter Terrorism Financing
BTIB	Business Trade and Investment Board
CIA	Criminal Intelligence Agency
CICS	Cook Islands Customs Service
CIFFO	Cook Islands Fisheries Field Officer
CIPS	Cook Islands Police Service
CLO	Crown Law Office
CTF	Counter Terrorism Financing
DNFBP	Designated Non-Financial and Business Profession.
EEZ	Exclusive Economic Zone
EFTR	Electronic Funds Transfer Report
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSC	Financial Supervisory Commission
FTRA	Financial Transactions Reporting Act
GDP	Gross Domestic Product
ML	Money Laundering
NPO	Non-Profit Organisation
NRA	National Risk Assessment
NRAT	National Risk Assessment Team
OCG	Organised Crime Gang
OIA	Official Information Act
ROBOC	Revenue on behalf of the Crown

TF	Terrorism Financing
TSEEZ	Territorial Sea and Exclusive Economic Zone.
WCPFC	Western and Central Pacific Fisheries Commission.

## Bibliography

CIA website: [www.cia.gov](http://www.cia.gov).

Cook Islands Mutual Evaluation Report, 2009, *Anti-Money Laundering and Combating the Financing of Terrorism*.

FATF Guidance, Feb 2013, *National Money Laundering and Terrorist Financing Risk Assessment*.

Pacific Islands Forum Secretariat (2014) *Transnational Crime Assessment Report*.

Walker, J (2008) *Money Laundering Risk Analysis for the Cook Islands*.

## END NOTE

- 
- <sup>i</sup> FIU information
  - <sup>ii</sup> FIU information
  - <sup>iii</sup> FIU information
  - <sup>iv</sup> FIU STR Analysis Process (Revised 2010)
  - <sup>v</sup> FIU stats
  - <sup>vi</sup> Police information
  - <sup>vii</sup> FIU information
  - <sup>viii</sup> FIU information
  - <sup>ix</sup> Police and FIU information
  - <sup>x</sup> Customs information
  - <sup>xi</sup> [www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)
  - <sup>xii</sup> FIU information
  - <sup>xiii</sup> World Bank and APG SIP spreadsheet
  - <sup>xiv</sup> FATF Guide – National Money Laundering and Terrorism Financing Risk Assessment, Feb 2013.
  - <sup>xv</sup> Police information - crime stats
  - <sup>xvi</sup> FIU STR information
  - <sup>xvii</sup> Ministry of Marine Resources information
  - <sup>xviii</sup> Inland Revenue (Tax) information
  - <sup>xix</sup> Proceeds of Crime Act 2003

- 
- xx Border Currency Report Stats
  - xxi Crown Law Office and FIU information
  - xxii Pacific Islands Forum Secretariat information
  - xxiii Cook Islands Government information.
  - xxiv Cook Islands Government information.
  - xxv Ministry of Statistics, CIA Fact book, Customs information and Mutual Evaluation Report 2009.
  - xxvi Financial Supervisory Commission and Financial Sector information.
  - xxvii Banking Sector information.
  - xxviii Financial Sector (Banks and Trustee Companies) information.
  - xxix Designated Non-Financial & Business Professions Sector information.
  - xxx Ministry of Justice information.
  - xxxi Government Ministry information.
  - xxxii FATF 40 Recommendations - [www.fatfgafi.org/topics/fatfrecommendation](http://www.fatfgafi.org/topics/fatfrecommendation)