



**FINANCIAL SUPERVISORY COMMISSION
COOK ISLANDS**

STATEMENT OF CORPORATE INTENT

2015-16

Financial Supervisory Commission

Statement of Corporate Intent: 2015-16

Preliminary

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

The Board of the Commission comprises

Raymond Newnham, Chairman
Fletcher Melvin
Geoffrey Stoddart
Madeilene Sword
Gaye Whitta

This Statement of Intent is issued by the Commission for the purposes of section 27 of the Financial Supervisory Commission Act 2003. It covers the year 1 July 2015 to 30 June 2016 and, as required by section 27, comments also on the year 1 July 2016 to 30 June 2017.

Objectives of the Commission

The objectives of the Commission are:

- To supervise licensed financial institutions to determine whether they are in sound financial condition and are complying with their governing legal and supervisory requirements.
- To advance and administer a supervisory framework which complies with internationally accepted standards and promotes the adoption of policies and procedures designed to control and manage risk.
- Through the supervision of licensed financial institutions, to promote financial stability and sound business practice and to assist the Cook Islands Government to prevent the use of licensed financial institutions for financial crime, money laundering, financing terrorism and proliferation.
- To assist the financial sector to develop through establishing and maintaining an internationally credible regulatory and supervisory regime.
- To operate the Registries of International Companies, International Trusts, International Partnerships, Limited Liability Companies and Foundations to a professional standard.
- To facilitate the prevention, detection, investigation and prosecution of money laundering, the financing of terrorism, proliferation and other serious offences in the Cook Islands.
- To co-ordinate the implementation of the Cook Islands anti-money laundering and countering the financing of terrorism and proliferation (AML/CFT) regime.

- To facilitate the collection, analysis and dissemination of financial intelligence relating to suspicious financial activity to the appropriate domestic and international authorities.

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

"Licensed financial institutions" are banks licensed pursuant to the Banking Act 2011, trustee companies registered pursuant to the Trustee Companies Act 2014, insurers licensed pursuant to the Insurance Act 2008, money changing and remittance businesses licensed pursuant to the Money Changing and Remittance Businesses Act 2009 and captive insurance entities licensed pursuant to the Captive Insurance Act 2013.

The Commission will administer the following enactments:

- Banking Act 2011
- Captive Insurance Act 2013
- Digital Registers Act 2011
- Financial Supervisory Commission Act 2003
- Financial Transactions Reporting Act 2004
- Foundations Act 2012
- Insurance Act 2008
- International Companies Act 1981-82
- International Partnerships Act 1984
- International Trusts Act 1984
- Limited Liability Companies Act 2008
- Money Changing and Remittance Business Act 2009
- Trustee Companies Act 2014

Along with the above statutes, pending new legislation is expected to come in to force in 2015/16 which will be administered by the Commission. The legislation is in the following areas:

- Currency Declaration
- Financial Intelligence Unit
- Financial Transaction Reporting
- Superannuation Supervision

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

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

Government has also established the Commission as free from Government direction in regards to the performance of its functions and duties.

The Commission will act as a good employer, as that term is defined in the Public Service Act 2009.

These objectives will apply for both the year commencing 1 July 2015 and, where applicable, to the year commencing 1 July 2016.

Nature and scope of activity to be undertaken in the financial year 1 July 2015 to 30 June 2016

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

a) Supervision

An on-site examination of each bank licensed in the Cook Islands will be conducted, with a focus on operational risk and risk management practices of these institutions in accordance with the requirements of PS10-2009, Policy for Management of Operational Risk. Adherence to the revised Banking Prudential Statements issued in August 2013 will be a continued focus for the 2015/16 supervision inspections.

Off-site supervision will be conducted through the review of data supplied by banks, trustee companies and insurers, and a risk based approach adopted in determining the level of regulatory oversight for all licensed institutions.

A review will be carried out to consider if in the future it would be beneficial to move to a full risk-based supervisory approach for both off-site and on-site inspections.

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

An on-site examination of any licensed Cook Islands based insurance provider will be conducted to determine ongoing compliance with the Insurance Act 2008, Insurance Regulations 2009 and the Insurance Code 2010. The Commission will conduct off-site analysis of licensed insurance intermediaries to determine any areas of risk to policyholders in the Cook Islands.

The Commission will continue to review the operations of trustee companies in the Cook Islands with a view to maintaining principles and standards for the conduct of trustee company business and the regulation of that business by the Commission to internationally accepted standards. The Commission will undertake visits to meet the new requirements of the Trustee Companies Act 2014.

The Commission will monitor and supervise the take-over of Westpac Banking Corporation in the Cook Islands by the Bank of the South Pacific if the proposed sale goes ahead.

The Commission will monitor and supervise the withdrawal of HSBC Trustee (Cook Islands) Limited from the jurisdiction.

b) Financial Intelligence Unit (FIU)

The Commission's staff will carry out the functions and responsibilities of the FIU upon delegation by the Head of FIU. This includes the regulation and conduct of compliance examinations for all registered Reporting Institutions in the Cook Islands as required by the Financial Transactions Reporting Act 2004.

The Commission will, through the FIU, continue to perform its intelligence gathering function and the evaluation of reporting institutions for compliance through its examination processes. The two roles are distinct but complementary. The intelligence function includes the receipt, analysis, dissemination and where appropriate, referral to law enforcement for investigation. The compliance function includes powers to examine and where appropriate and authorised by the Head of FIU, enforcement of compliance through sanctions and penalties.

The Commission, through the FIU, will be empowered to investigate and prosecute offences committed under the Financial Intelligence Unit Bill (2015), Financial Transactions Reporting Bill (2015) and the Currency Declaration Bill (2015) if passed by Parliament in 2015.

The Commission through the Head of FIU will continue to participate at the Asia Pacific Group (APG) Annual Plenary Meeting (13 – 17 July 2015, Auckland, New Zealand) and the APG Typologies Workshop (October or December 2015, Nepal).

The Commission, through the FIU, will develop policy and procedures regarding the seizure of undeclared or false declaration of currencies at the border, including policies and procedures for the implementation of the administrative fine system for non compliant matters under the FTRA.

The Commission, through the FIU, will upon the passing of the FIU Bill (2015) commence with the restraint, forfeiture or proceedings against any recoverable money under the FIU Bill.

The Commission, through the FIU, will coordinate with key national stakeholders in maintaining the national money laundering and terrorism financing risk assessment for the Cook Islands.

The Commission, through the FIU, will continue to participate in other National Committees such as the Coordinated Committees of Agencies & Ministries,

the Combined Law Agency Group, the Anti-Corruption Committee and the Cook Islands National Intelligence Unit.

The Commission will seek to identify and install IT systems to improve the handling of intelligence and provide an electronic reporting system for financial institutions to the FIU.

c) Registry of International Entities

The FSC Registry will continue to fully utilise exception reporting capabilities to ensure focussed review of new and ongoing registrations throughout 2015/16.

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

d) International and Domestic Liaison

The Commission will participate in the plenary meeting of the APG on Anti-Money Laundering, to be held in Auckland, New Zealand in July 2015. At the meeting the Commission will be involved in consideration of the progress made by the Cook Islands in its AML/CFT regime since the Mutual Evaluation undertaken by the APG in 2009. The Commission will also be involved in improving the AML/CFT regime in the Cook Islands in preparation for the fourth round of evaluations which commenced in 2014. The next Mutual Evaluation of the Cook Islands is scheduled to be undertaken in 2020.

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

The Commission will continue to participate as a member of the Group of International Finance Centres Supervisors (GIFCS) and will be represented at the annual meeting of the GIFCS due to be held in November 2015 in Macau, China. Additionally, the Commission will be represented at the half yearly meeting to be held in London in 2016.

Technical assistance will continue to be sought from the Pacific Financial Technical Assistance Centre, the International Monetary Fund, APRA through its Pacific Governance Support Programme and the Financial Stability Institute. The Commissioner or Deputy Commissioner will represent the Commission at the Annual Meeting of the Association of Financial Supervisors of Pacific Countries (AFSPC) in the Solomon Islands in August 2015.

The Commission will liaise with the Financial Services Development Authority, to assist where possible with the development of the offshore industry. This may require the participation of the Commissioner in representing the strength of the regulatory environment of the Cook Islands at some international fora. However, the Commission will review any proposals for legislative change that may be put forward in promoting the financial industry in the Cook Islands against the desire to ensure no compromise of the continuing advancement in the standard of financial regulation.

e) Legislation

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

It is expected that legislation will be passed in 2015/16 to bring the Cook Islands National Superannuation Fund (CINSF) and any other superannuation fund established in the Cook Islands under the regulatory control of the Commission. If this happens the Commission will undertake an on-site inspection of the CINSF to determine compliance with the legislation and any areas of operational risk to the members of the fund.

f) Miscellaneous

The Commission will promote its web site and ensure the currency and accuracy of the information provided therein to improve transparency of the supervisory regime in the Cook Islands in the public interest.

A new searchable IT system will be installed to better archive the Commission's records and decisions.

A comprehensive risk management plan will be developed incorporating a disaster recovery plan.

Underpinning the Commission's activities for the year will be constant attention to the training of staff and strengthening the Commission's capacity and ability to perform its tasks. One nominated area of focus in 2015/16 being in respect to all aspects of Trustee Company regulation under the Trustee Companies Act 2014.

A new staff reporting system will be rolled-out which also better identifies the training needs of staff.

Up-skilling of other staff will also be given when possible by structured training programmes, participation in APRA internships and joint reviews and attendance at international conferences and seminars.

Nature and scope of activity to be undertaken in the financial year 1 July 2016 to 30 June 2017

The Commission will continue to fulfil its duty to administer legislation for which it is responsible. In particular, but without limiting the extent of the Commission's duties to be performed in that year, the Commission will:

- (a) Undertake the prudential supervision of the banking business of all banks holding banking licences to carry on banking business in the Cook Islands;
- (b) Encourage and promote licensed financial institutions to carry out sound practices in relation to prudential matters;
- (c) Undertake the prudential supervision of insurers holding licences to conduct insurance business in the Cook Islands;
- (d) Undertake supervision of insurance intermediaries licensed to conduct general insurance business in the Cook Islands;
- (e) Undertake supervision of money changing and remittance businesses licensed to conduct money changing and remittance business in the Cook Islands;
- (f) Undertake supervision of trustee companies licensed to conduct trustee business in the Cook Islands;
- (g) Undertake supervision of captive insurance businesses licensed to conduct captive insurance business in the Cook Islands;
- (h) Investigate and review the performance by licensed financial institutions and designated non-financial businesses and professions of their obligations pursuant to Parts 2 & 3 of the Financial Transactions Reporting Act 2004, or its replacement legislation if enacted;
- (i) Undertake licensing and approvals of superannuation funds, if draft legislation is enacted and consequent prudential supervision;
- (j) Consider and deal with on a timely basis all completed applications to the Commission for a licence, registration or authorisation pursuant to any enactments the Commission has responsibility to administer;
- (k) Efficiently administer the requirements for registration and renewal of registration of international companies, international trusts, international partnerships, limited liability companies and foundations;
- (l) Investigate and prosecute matters under the Financial Intelligence Unit Bill (2015), the Financial Transactions Reporting Bill (2015) and the Currency Declaration Bill (2015) once the legislations are enacted;

(m) Perform airport or seaport duties for the purpose of enforcing the Currency Declaration Bill (2015) once enacted.

(n) Deal with in a timely manner any other matters brought before the Commission.

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

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

Performance Targets for the years 1 July 2015 - 30 June 2016 and 1 July 2016 - 30 June 2017

The Commission will seek to achieve the following targets:

(1) To conduct each year an on-site examination of all banks, insurers, trustee companies and money changing and remittance businesses licensed to carry out business in the Cook Islands. Risk based supervision will determine the level of further regulatory oversight applied to licensed institutions.

(2) To undertake off-site reviews of all data supplied by banks and insurers on a quarterly basis.

(3) To administer new applications for the licence of a financial institution on a timely basis with all applications for new licences being determined within three months of the receipt of the completed application.

(4) To conduct in each year compliance reviews of all licensed financial institutions and designated non-financial businesses and professions in respect of the financial transactions reporting regime.

(5) To review each year the operations of trustee companies in relation to the Statement of Best Practice issued by the GIFCS and the Trustee Companies Act 2014.

(6) To administer registration and renewal of registration of international companies, international trusts, international partnerships, limited liability companies and foundations efficiently and without delay.

(7) To keep under on-going review legislation administered by the Commission with a view to recommending amendments where the legislation needs to reflect changes in the global financial environment, including best international supervisory and regulatory practice.

(8) To enhance the skills of supervisory staff, principally by use of technical training provided by the Pacific Financial Technical Assistance Centre, the

International Monetary Fund, the Australian Prudential Regulation Authority and the Financial Stability Institute.

(9) To maintain a structured programme for upskilling the staff of the Commission throughout the year.

(10) To report to the Minister of Finance on the legislation administered by the Commission by 30 September each year.

(11) To undertake enforcement action where necessary to achieve the Commission's objectives.

(12) To coordinate and conduct a tri-annual National Risk Assessment for the Cook Islands.

(13) To develop policies and procedures, and guidelines in administering the Financial Transactions Reporting Bill (2015) and the Currency Declaration Bill (2015), and on an annual basis review those policies and guidelines in line with any changing circumstances or changes in legislation.

(14) To effectively administer and enforce the Financial Intelligence Unit Bill (2015), the Financial Transactions Reporting Bill (2015) and the Currency Declaration Bill (2015).

(15) To discharge all other obligations on a timely and proper basis under the legislation which the Commission has responsibility to administer.

The Financial Resources required to achieve the Performance Targets

Expenditure

The estimated expenditure of the Commission for the year 1 July 2015 to 30 June 2016 is as follows:

PERSONNEL	\$	\$
Salaries (incl Superannuation)	715,000	
Staff Training & Conferences (incl Travel)	23,000	
		738,000
BOARD		
Fees	84,000	
Expenses	6,200	
		90,200
COMMISSIONER		
Accommodation	19,500	
Contractual Expenses (incl. Insurance)	11,000	
Entertainment	1,200	
Recruitment	22,000	
Travel	20,000	
		73,700

HEAD OF FIU		
Contractual Expenses (telephone)	1,800	
Travel	15,000	
		16,800
DEPUTY COMMISSIONER		
Contractual Expenses (memberships)	1,500	
Travel	5,000	
		6,500
OPERATING EXPENSES		
Audit Fee	3,000	
Advertising & Promotion	2,400	
Bank Fees	1,200	
Cleaning	5,000	
Communications	7,800	
Computer Costs	12,000	
Depreciation (Fixed Assets)	26,520	
Amortisation (Online Registry)	15,720	
Electricity	14,400	
Expensed Equipment	3,000	
FIU-in-the-Box	10,000	
General Expenses	3,000	
Insurance	4,500	
Motor Vehicle Expenses	4,800	
Office Rental	30,000	
Office Supplies	4,800	
Online Registry (FM and TCI)	39,600	
Professional Services	20,000	
Repairs & Maintenance	2,400	
Subscriptions	20,000	
		230,140
TOTAL EXPENDITURE		1,155,340
Levy on Int. Trusts payable to the Crown		262,065
TOTAL OUTGOINGS		1,417,405

Revenue

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

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

Banking Act 2011
 Captive Insurance Act 2013
 Foundations Act 2012

Insurance Act 2008
 International Companies Act 1981-82
 International Trusts Act 1984
 International Partnerships Act 1984
 Limited Liability Companies Act 2008
 Money-changers and Remittance Businesses Act 2009
 Trustee Companies Act 2014

The estimated fees from these sources for the year 1 July 2015 to 30 June 2016 are \$1,357,275 (net of VAT). Although all amounts are in New Zealand dollars; registry fees payable to the Commission are denominated in US dollars and income is therefore subject to currency exchange fluctuations. The rate of 0.80 was used to prepare these figures. These estimates are based on the numbers of international companies, trusts, and limited liability companies remaining constant. A further amount of miscellaneous operating revenue and interest totalling \$76,156 is also expected to be generated.

The estimated revenue is as follows:

REVENUE	\$
Bank Licences	55,391
Insurance Licences	10,740
Trustee Company Licences	27,132
International Companies	361,217
International Trusts	812,400
Limited Liability Companies	90,395
Miscellaneous Revenue	76,156
TOTAL REVENUE	1,433,431

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

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

The Commission anticipates collecting an amount of \$262,065 from registration and renewal fees for International Trusts, to assist to fund the Financial Sector Development Authority.

In accordance with section 24(2) of the Financial Supervisory Commission Act 2003, excess funds will be paid to the Cook Islands Government. It is anticipated the Commission will return an excess to government of \$15,000 for the 2015/16 financial year.

For the year 1 July 2016 - 30 June 2017 income and expenditure are projected as follows:

	\$	\$
INCOME*		1,433,431
EXPENDITURE		
Personnel expenses including Board	832,800	
Operating expenses including Depreciation	322,540	
		(1,155,340)
Levy on Int. Trusts payable to the Crown		(262,065)
EXCESS		16,026

*The exchange rate used for this calculation is US\$.80; NZ\$1.00.

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

In applying the depreciation and amortisation policies of the government, the Commission will incur additional expenses of \$25,058 in relation to the on-line registry system hardware and associated software in the the year 1 July 2015 - 30 June 2016. This equipment was obtained at no cost through aid funding from NZ Aid, but is required to be depreciated and amortised in line with government policy.

The Accounting Policies of the Commission

The General Accounting Policies of the Commission for the year 1 July 2015 - 30 June 2016 and for the year 1 July 2016 - 30 June 2017 are as follows:

Basis of Preparation of Accounts

- (i) **Reporting Entity**
The financial statements are for the Financial Supervisory Commission, which is considered to be an agency of the Crown. The Financial Supervisory Commission carries out services as mandated under the Financial Supervisory Commission Act 2003.
- (ii) **Statement of Compliance**
The financial statements are prepared in accordance with the Ministry of Finance and Economic Managements Act 1995-96 and with the International Public Sector Accounting Standards issued by the International Public Sector Accounting Standards Board (IPSASB).

(iii) Measurement Base

The financial statements are prepared on a going concern basis and the accounting policies have been applied consistently throughout the period.

The Significant Accounting Policies of the Commission will not change from the 2014/15 financial year. The detailed policies form part of the annual audited Financial Statements and may be viewed in full in the Commission's Annual Report.

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

No additional matters have been agreed between the Minister of Finance and the Commission for inclusion in this Statement of Intent for the year 1 July 2015 to 30 June 2016 and no additional matters are expected to be agreed between the Minister of Finance and the Commission for the inclusion in the Statement of Intent to be issued by the Commission for the year 1 July 2016-30 June 2017.

Dated at Rarotonga this 26th day of March 2015.



Raymond Newnham
Chairman
Financial Supervisory Commission