

**FINANCIAL SUPERVISORY COMMISSION
COOK ISLANDS**

STATEMENT OF CORPORATE INTENT

2016-17

Financial Supervisory Commission

Statement of Corporate Intent: 2016-17

Introduction

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 2016 to 30 June 2017 and, as required by section 27, comments also on the year 1 July 2017 to 30 June 2018.

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; and

- 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 licensed pursuant to the Trustee Companies Act 2014, insurers licensed pursuant to the Insurance Act 2008, captive insurance entities licensed pursuant to the Captive Insurance Act 2013 and money changing and remittance businesses licensed pursuant to the Money Changing and Remittance Businesses Act 2009.

The Commission will administer the following enactments:

- Banking Act 2011
- Captive Insurance Act 2013
- Digital Registers Act 2011
- Financial Intelligence Unit Act 2015
- 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 Businesses Act 2009
- Trustee Companies Act 2014

Along with the above statutes, pending new legislation is expected to come in to force in 2016/17 which will be administered by the Commission. The pending legislation addresses the following:

- Currency Declaration
- Financial Transaction Reporting
- Superannuation Supervision

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

In this regard bespoke legislation is currently being considered in respect to the Pacific Catastrophe Risk Assessment and Financing Initiative (PCRAFI) Insurance Program. At the Pacific Islands Forum Economic Ministers Meeting in October 2015 the decision was made to establish a PCRAFI facility, whose

beneficiaries are Forum Island Countries with the sole purpose to establish and own an insurance captive to provide disaster and climate risk insurance, created as an independent legal entity.

The Pacific Islands Forum Secretariat stated the domicile of the facility would be in the Cook Islands, pending further legal due diligence. If confirmed as the PCRAFI host, legislative change or new legislation will be required to accommodate this international/domestic hybrid entity during this reporting period.

Government's policy in relation to the Commission is to promote and support the Commission in its objectives and functions as an independent institution.

Government has established the Commission with independent funding so that the Commission is free from annual appropriation.

Government has also established the Commission as free from Government direction in 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 2016 and, where applicable, to the year commencing 1 July 2017.

Nature and scope of activity to be undertaken during the year commencing 1 July 2016

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

a) Supervision and Regulation

A risk based, targeted focus, onsite inspection will be conducted on each bank licensed in the Cook Islands during the year to 30 June 2017.

The Commission will continue to place emphasis on comprehensive offsite supervision through the review of quarterly data and annual audited accounts, as a risk based approach is implemented in respect to the supervision of all licensed institutions, commencing with the banking sector.

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. As per 2015/16, attention will again be directed towards recent registrations and those licensees deemed higher risk.

An onsite examination of each 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 continue to conduct offsite analysis of licensed insurance intermediaries to determine any areas of risk to policyholders in the Cook Islands.

Following on from the inaugural onsite supervision visits to all licensed Trustee Companies in the year to 30 June 2016, the Commission will continue to review the operations of these licensees. A more targeted approach will be applied in 2016/17, focusing on some areas of their operations considered higher risk including outsourcing arrangements, nominee companies, related parties and IT security.

The Commission will monitor and supervise the three new Trustee Company licensees effective from when they commence business in the Cook Islands.

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 Act 2015, and in due course the Financial Transactions Reporting Bill (2016) and the Currency Declaration Bill (2016) when passed by Parliament.

The Commission, through the Head of FIU will continue to participate at the Asia Pacific Group (APG) Annual Plenary Meeting and, where relevant, the APG Typologies Workshop.

The Commission, through the FIU, will implement the new policies 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 apply the new legislation in respect to restraint, forfeiture or proceedings against any recoverable money under the new Financial Intelligence Unit Act 2015.

The Commission, through the FIU, will continue to 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 actively participate in other National Committees including the AML/CFT Coordinating Committee, Combined Law Agency Group, Anti-Corruption Committee and the Cook Islands National Intelligence Taskforce.

The Commission will continue to enhance the handling of intelligence through the electronic filing system for financial institutions reporting 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 2016/17.

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

Following the 2015/16 review of the capabilities of the Online Registry and the intention to move the most recent register online, foundations, an upgrade proposal has recently been submitted by Foster Moore. The original electronic registry was funded via the New Zealand Aid Programme, a funding provider will be sought to enable the proposed 2016/17 upgrade to proceed.

d) International and Domestic Liaison

The Commission will participate in the plenary meeting of the APG on Anti-Money Laundering and the Head of FIU will represent the Commission at the annual Egmont meeting. The Commission will continue to strive to improve the AML/CFT regime in the Cook Islands in preparation for the next Mutual Evaluation, scheduled to be undertaken in the latter part of 2017.

The Mutual Evaluation represents a significant challenge to the jurisdiction as a whole, and appropriate resources will be allocated to ensure the Commission and FIU address all their identified areas of vulnerability, as measured against international best practice, in as timely a manner as possible.

The Commission will liaise with the Australian Prudential Regulation Authority (APRA) and the Bank of Papua New Guinea (BPNG), as home regulators, of the Cook Islands branches of ANZ and Bank South Pacific, respectively.

Likewise, in 2016/17 relationships will be built with home supervisors of insurance licensees.

The Commission will continue to participate as an active member of the Group of International Finance Centre Supervisors (GIFCS) and will be represented at the annual, and half yearly, meeting of the GIFCS.

The Commission was admitted to the Group of International Insurance Centre Supervisors (GIICS) as an observer in June 2015 and will apply for full membership status at the annual meeting in June 2016. The Commission will be represented at the annual meeting of GIICS going forward.

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) during 2016/17.

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.

The Commission will continue to liaise with industry, via the Trustee Companies Association (TCA) and the Bankers Association, in respect to issues facing the respective licensees.

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 2016/17 to bring the Cook Islands National Superannuation Fund (CINSF), and any other superannuation funds established in the Cook Islands, under the regulatory control of the Commission. If this occurs the Commission will undertake an onsite 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 website and ensure the currency and accuracy of the information provided therein to improve transparency of the supervisory regime in the Cook Islands.

A new electronic document management system, with comprehensive search and find capabilities, will be implemented to better archive the Commission's records and decisions.

The Commission's disaster risk management plan, developed in 2015/16, will be critiqued to ensure compliance with international standards.

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. Continued focus will be given to strengthening supervisory skills and capacity in respect to Trustee Companies and Insurance licensees, specifically captive insurers.

Upskilling of staff, across the Commission, by attending structured training programmes, participation in APRA joint reviews and attendance at international workshops will be encouraged.

A review, in the context of fit-for-purpose, of all legislation administered by the Commission will commence in 2016/17; initially with a review of the foundations and insurance legislation.

Nature and scope of activity to be undertaken during the year commencing 1 July 2017

The Commission will continue to fulfil its duty to administer legislation for which it is responsible. Responsibilities of the Commission have grown progressively and are expected to continue to grow.

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

Undertake the prudential supervision of all:

- (a) Banks licensed under the Banking Act 2011;
- (b) Insurers licensed under the Insurance Act 2008;
- (c) Insurance intermediaries including agents, brokers and managers licenced under the Insurance Act 2008;
- (d) Money changers and remittance businesses licensed under the Money Changers and Remittance Businesses Act 2009;
- (e) Trustee Companies licensed under the Trustee Companies Act 2014;
and
- (f) Captive Insurers licensed under the Captive Insurance Act 2013.

- (g) Encourage and promote licensed financial institutions to carry out sound practices in relation to prudential matters;
- (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 the 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 Act 2015, the Financial Transactions Reporting Bill (2016) and the Currency Declaration Bill (2016) once the legislations are enacted;
- (m) Perform airport or seaport duties for the purpose of enforcing the Currency Declaration Bill (2016) once enacted;
- (n) Effectively coordinate the implementation of the Cook Islands Mutual Evaluation plan; and
- (o) 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 continuing professional development 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 commencing 1 July 2016 and 1 July 2017

The Commission will seek to achieve the following targets:

- (1) To conduct, as often as deemed necessary, an onsite 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 assist to determine the level of regulatory oversight applied to licensed institutions.

- (2) To undertake offsite reviews of all data supplied by banks, insurers and trustee companies on a regular 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 the prescribed timeframe from 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, the Financial Stability Institute and other technical assistance programmes.
- (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 (2016) and the Currency Declaration Bill (2016) 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 Act 2015, the Financial Transactions Reporting Bill (2016) and the Currency Declaration Bill (2016).

(15) To coordinate the implementation of the Cook Islands Mutual Evaluation plan.

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

The Financial Resources required to achieve the Performance Targets

Expenditure

The estimated expenditure of the Commission, net of VAT, for the year 1 July 2016 to 30 June 2017 is as follows:

PERSONNEL	\$	\$
Salaries (including Superannuation)	722,150	
Staff Training, travel and expenses	25,000	
		747,150
BOARD		
Fees	84,000	
Expenses	11,200	
		95,200
COMMISSIONER		
Contractual Expenses	2,500	
Entertainment	1,500	
Travel	20,000	
		24,000
HEAD OF FIU		
Contractual Expenses	1,800	
Travel	15,000	
		16,800
DEPUTY COMMISSIONER		
Contractual Expenses	500	
Travel	5,000	
		5,500
OPERATING EXPENSES		
Audit Fee	3,000	
Advertising & Promotion	2,400	
Bank Fees	1,500	
Cleaning	5,600	
Communications	7,800	
Computer Costs	12,000	
Conferences & Workshops	12,000	
Depreciation (Fixed Assets)	18,000	
Amortisation (Software)	18,480	
Electricity	14,400	
Expensed Equipment	4,000	
General Expenses	3,600	

Insurance	4,500	
Maintenance	3,000	
Motor Vehicle Expenses	4,800	
Office Rental	30,000	
Office Supplies	5,400	
Online Registry operating expenses	39,600	
Operation Costs	25,000	
Professional Services	20,000	
Subscriptions	22,500	
		257,580
TOTAL EXPENDITURE		1,146,230
Levy on Int. Trusts payable to the Crown		293,425
TOTAL OUTGOINGS		1,439,655

Revenue

The financial resources available to the Commission to carry out its undertaking, and to achieve its performance targets, include all licence, registry 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 Partnerships Act 1984
International Trusts 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 2016 to 30 June 2017 are \$1,521,754 (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 0.73 was used to prepare these figures.

These estimates are based on the number of international companies, trusts, limited liability companies and foundations increasing by 2% from 2015/16 registry numbers.

A further amount of miscellaneous operating revenue and interest totalling \$78,456 is also expected to be generated.

The estimated revenue is as follows:

REVENUE	\$
Bank Licences	55,391
Insurance Licences	16,529
Trustee Company Licences	36,174
International Companies	403,772
International Trusts	909,615
Limited Liability Companies	100,273
Miscellaneous Revenue	78,456
TOTAL REVENUE	1,600,210

The Commission anticipates collecting an amount of \$293,425 from registration and renewal fees for International Trusts, to assist to fund the Financial Services 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 \$160,000 for the 2016/17 financial year.

For the year 1 July 2017 - 30 June 2018 income and expenditure are projected as follows:

	\$	\$
REVENUE*		1,600,210
EXPENDITURE		
Personnel expenses including Board	810,950	
Operating expenses including Depreciation	335,280	
		(1,146,230)
Levy on Int. Trusts payable to the Crown		(293,425)
EXCESS		160,555

*The exchange rate used for this calculation is US\$0.73; NZ\$1.00.

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

In applying the amortisation policy of the government, the Commission will incur additional expenses of \$15,715 in relation to the online registry software in the year ended 30 June 2017. This intangible asset was obtained at no direct cost to the Commission through funding from the New Zealand Aid programme, but is required to be amortised in line with government policy.

The Accounting Policies of the Commission

The General Accounting Policies of the Commission for the year 1 July 2016 - 30 June 2017 and for the year 1 July 2017 - 30 June 2018 are as follows:

Basis of Preparation of Accounts

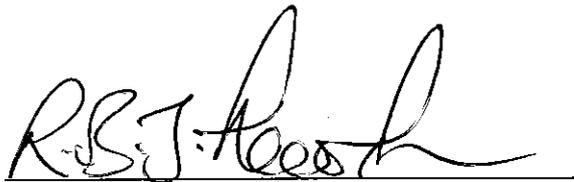
- (i) **Reporting Entity**
The financial statements are for the Financial Supervisory Commission, which is considered to be an agency of the Crown. The Financial Supervisory Commission carries out services as mandated under the Financial Supervisory Commission Act 2003.
- (ii) **Statement of Compliance**
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 2015/16 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.

Other Matters as 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 2016 to 30 June 2017 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 2017-30 June 2018.

Dated at Rarotonga this 22nd day of March 2016.



Raymond Newnham
Chairman
Financial Supervisory Commission