

# Cook Islands FIU

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## Supervision of Anti- Money Laundering and Countering Financing of Terrorism



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# Introduction

This document outlines the Financial Intelligence Unit's (FIU) plan for monitoring reporting entities under the Financial Transactions Reporting Act 2017 (FTRA 2017).

The FIU monitors all reporting institutions (RI's) as prescribed through the FTRA 2017 and its Regulations.

RI's had the benefit of a period of preparation prior to the enactment of the FTRA 2017, regular FSC/FIU engagement provided RI's the information to develop the necessary processes and procedures that would enable them to comply with the FTRA 2017 from the day of its enactment. RI's entered into a voluntarily agreement of compliance with the draft law from December 2016. The FTRA 2017 came into force on the 23rd June 2017. The expectation of the FIU was that all reporting entities would be compliant from 23rd June 2017.

This document seeks to inform and assist RI's to gain a better understanding of our approach to AML/CFT compliance and encourages RI's to ensure they are compliant, particularly in our priority areas outlined below.

It is important that all reporting entities have incorporated these new regulatory obligations in to their processes in as timely a manner as possible, so the objectives of the FTRA 2017 can be achieved.

## FTRA Objectives

- to detect and deter money laundering and financing of terrorism
- to maintain and enhance Cook Islands international reputation by adopting the recommendations issued by the Financial Action Task Force ("FATF")
- to contribute to public confidence in the Cook Islands financial system.

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# FIU's supervision priorities for 2018

## Ensuring compliance

The FIU's role as the AML/CFT supervisor will be to monitor compliance with the FTRA 2017, including assessment of the adequacy and effectiveness of RI's systems and controls, to detect and deter money laundering and terrorist financing, and to take action where this fall below the expected standard.

The FIU's AML/CFT role is wide in the Cook Islands. The FIU is empowered through two main Acts the FTRA 2017 and the Financial Intelligence Act 2015 (FIU Act).

## The defined purpose of the FTRA 2017 is:

1. concerned with transactions that relate to financial misconduct and other serious offences.
2. To assist in the prevention, detections, investigation and prosecution of financial misconduct and other serious offences.
3. It achieves these aims by requiring certain persons (RI's) to do the following: -
  - a. Establish and maintain internal policies, procedures and controls to address their risks of financial misconduct; and
  - b. Assess their risks relating to financial misconduct; and
  - c. Ensure they undertake customer due diligence; and
  - d. Keep records of customer due diligence information and transactions; and
  - e. Report certain transactions and suspicious activity.

## The FIU Act provides for the FIU to continue as a national central unit to: -

1. Administer and enforce certain statutes that concern financial misconduct; and
2. Conduct related inquiries, investigations, analysis and enforcement oversight; and
3. Provide enhanced powers for the FIU as an independent unit of the FSC.

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We expect a RI and its staff to be clear about their obligations to comply with the FTRA 2017, and for senior management and directors to make sure that they know what the entity is doing to comply.

As part of a RI's compliance programme, FIU expects senior management and directors to:

- put in place appropriate monitoring activities such as independent compliance checks or internal audits.
- receive information tracking key compliance controls.
- deal with any breaches and associated remedial actions
- challenge management on compliance results where necessary.

FIU's monitoring activities may start by asking senior management "How do you know your organisation is compliant and adopting appropriate behavior's?" "can we see your recent risk and compliance reports (and other such admissions) provided to your various Boards and delegated Board committees?"

## Focus areas

### Risk assessments

Each RI is required to assess the risk of money laundering and terrorist financing it can reasonably expect to face in the course of its business. The FIU will review risk assessments to see how entities have identified the risks of money laundering and terrorist financing within their business, what policies and procedures have been implemented to keep the risk assessment up to date, and how the risk assessment has been used to develop the reporting entity's AML/CFT compliance programme.

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## AML/CFT compliance programme.

Your Compliance programme should set out the internal policies, procedures and controls necessary to detect money laundering and terrorist financing, as well as manage and mitigate the risk of it occurring. The FIU will review the board and senior management oversight of compliance and also focus on:

**Customer due diligence** — policies and procedures including both 'on boarding' procedures and ongoing customer due diligence. Our focus will include the identification of customers who are at the highest level of risk, taking into account investments, country of residence, and for non-individuals, the type and complexity of the customer. We will review a selection of customer files to ensure the procedures are being followed in practice.

**Customer transaction monitoring** — how the reporting entity has implemented appropriate levels of customer activity monitoring to identify suspicious activity.

**Money Laundering Reporting Officer (MLRO)** — skills and experience of the MLRO and how this person administers and maintains the compliance programme.

**Management information** — the RI's management and use of relevant information by directors to manage and mitigate money laundering and terrorist financing risk and overseeing of compliance.

**Testing and assessing compliance**— A RI in compliance with section 15 FTRA 2017 must maintain appropriate procedures and adequate resources to, independently and periodically, test and assess the effectiveness of the RI's compliance programme and its compliance with the requirements of the FTRA 2017.

In August 2017 the FIU issued the "Practice Guidelines for the Financial Transactions Reporting Act 2017", it has also issued specific guidance for Accountants, High Value Item Retailers, Lawyers, Real Estate and Trustee Companies. The FIU encourages RI's to utilise these resources.

## Continuing education

We are committed to an open educative approach to ensure all RI's have clear and well understood responsibilities. The FIU will publish our findings from our monitoring and may also issue further guidance as a result of this monitoring.

We encourage all reporting entities to use our findings to improve their RI's compliance as necessary.

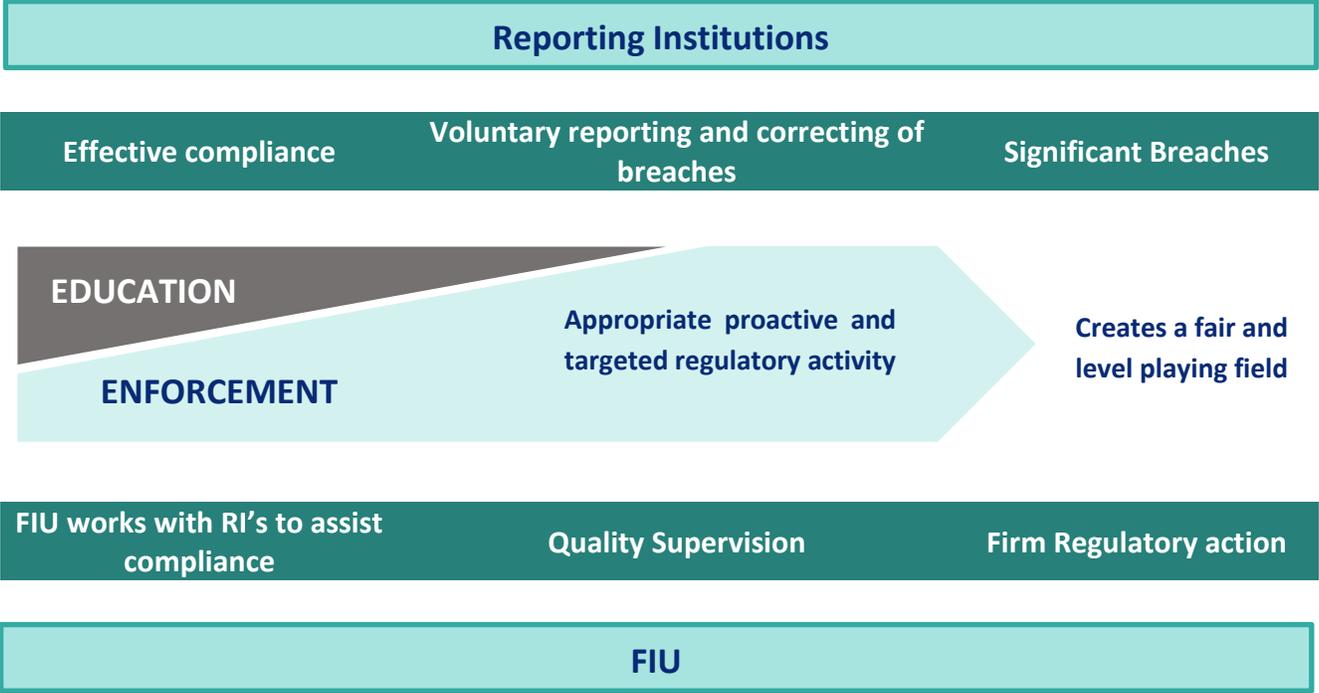
# Regulatory approach to AML/CFT supervision

## FIU’s compliance strategy

Our compliance strategy emphasises a 'top of the cliff' approach and focuses on ensuring reporting entities are aware of their obligations and have implemented systems and processes to ensure compliance with the FTRA. The FIU is proactively fostering a culture in which RI's

actively work to set appropriate standards and put in place a robust approach to managing and monitoring compliance, as well as willingly sharing information with us, and reporting breaches as necessary.

## FIU’s regulatory framework



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## Intelligence and risk-based monitoring approach

The FIU's intelligence and risk-based approach to our monitoring and surveillance activities means that we prioritise resources to those areas with the greatest risks of money laundering and financing of terrorism and identify new and emerging risks.

In considering risk, we use open source information, financial intelligence and research to identify potential problems, assess the likelihood that poor practice or non-compliance may be occurring, and consider the impact on Cook Islands reputation and the public's confidence in the domestic financial systems.

Onsite monitoring will be performed as part of the scheduled FSC prudential supervisory inspections. These inspections will be informed by the desk-based monitoring and review of the material that you provide. Examples of the material that will support your compliance with FTRA 2017 are at appendix 1.

As part of our risk-based approach, we will proactively monitor RI's. This allows us to identify any new risks and any compliance themes or areas of poor practice across the sector. It also helps the FIU to identify a need for further guidance and ensure our expectations are practical.

The FIU may undertake thematic reviews on particular areas of the compliance programme at any time.

The FIU / FSC will continue to use a variety of monitoring approaches, from desk-based reviews to full on-site inspections, involving both interviews with management, compliance and front-line staff, reviews of relevant documentation and testing controls. In most cases, the FIU will contact an entity prior to conducting a monitoring visit so that the scope of the visit and appropriate dates can be agreed.

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## Testing and assessing compliance

The “Practice guidelines for FTRA 2017” states

**Under section 15 you must (unless the FIU has undertaken an onsite compliance visit in the previous 12 months or you have been exempted from the requirement) review and test your compliance programme to ensure it remains up to date, to identify any deficiencies and make changes to address them. This should be done on a periodic basis and it is recommended for most reporting institutions this should be conducted every two years.**

**This review and testing should be undertaken by a person who has experience in anti-money laundering or countering the financing of terrorism or has relevant financial experience in your sector. This could be a person or firm external to your organisation or could be someone internal or from within your group provided they have not been involved in the development, implementation or maintenance of any aspect of your compliance programme.**

All RI’s must maintain appropriate procedures and adequate resources to, independently and periodically, test and assess the effectiveness of their compliance programme and its compliance with the requirements of the FTRA 2017.

**The FIU recommends that an independent audit, of your compliance programme, should be conducted every two years, or when requested to do so by the FIU.**

RI’s should consider the timing of their audit carefully. The FIU expects that many entities, particularly those in sectors which we regard as higher or medium risk, will seek to obtain early assurance about their compliance.

## Monitoring outcomes

Responsibility for compliance with the FTRA 2017 rests with the reporting entity and its directors.

The FIU will provide regular feedback from its monitoring activities. This will include a

feedback report to the RI and sector level feedback where appropriate.

Where our monitoring or enquiries identify non-compliance, we will use a range of tools available to us, to deliver a timely, effective and proportionate response. We may undertake

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further inquiry or expect a reporting entity to adjust its compliance and will follow up to ensure that this is done. In some cases, notices, warnings or enforceable undertakings may be used. Further non-compliance could result in stronger action, such as civil or criminal prosecution.

## **Co-operation with other agencies**

The AML/CFT supervisors will engage with its financial intelligence function and other government agencies through the National Co-ordination Committee. Members include FIU, FSC, Police, Customs, Tax, Crown Law and Immigration.

The AML/CFT supervisors may also receive information on compliance issues revealed by suspicious activity reporting and may undertake follow-up action with those RI's.

The money laundering and terrorist financing environment is not static. Criminals adapt by

Over the past two years, the FIU has worked hard to raise awareness and provide guidance. However, even with our open and educative approach, there will always be some reporting entities that do not comply. We will work to identify this behaviour as early on as possible and take the appropriate action to address this.

adopting new methods of money laundering and terrorist financing, for example by utilising new technologies. To assist the FIU in targeting our monitoring approach, we will take into account all relevant information provided by international counterparts, including typology reports issued by NZ FIU, AUSTRAC, other Pacific region countries, The Egmont Group of FIU's, the Asia Pacific Group (APG) and statements from the Financial Action Task Force (FATF).

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## Appendix A

### Cook Islands FIU requests...

#### Information to be provided by (DD MM 2018):

##### General

1. Most recent risk and compliance reports (and other such submissions) provided to your various Boards and delegated Board committees.
2. Also provide group and organisational reporting structure and provide us with details of any significant changes since the last inspection.

##### AML/CFT- Policies and procedures

3. AML/CFT risk assessments of reporting institution; existing business; new technologies and customer risk assessments.
4. AML/CFT internal compliance programme
5. Supporting AML/CFT policies and procedures

##### AML/CFT Training

6. Any supporting evidence of training performed (training material) and staff attendance

##### AML/CFT Transaction/Account monitoring

7. Internal monitoring/documented listing of identified unusual transactions;
8. Suspicious activity register and reports made to the Financial Intelligence Unit.

##### AML/CFT testing and assessing compliance

9. Any audits (internal or external) performed on AML/CFT compliance programme and risk assessment or related functions (such as compliance / risk).
10. You are welcome to provide other information if you expect it to be of significant value to us to review.