



United States Department of the Treasury  
Financial Crimes Enforcement Network

# FinCEN Advisory

Subject:  
**Transactions  
Involving  
the Cook Islands**

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2000**

Advisory:  
**Issue 15**

Banks and other financial institutions operating in the United States are advised to give enhanced scrutiny to all financial transactions originating in or routed to or through the Cook Islands or involving entities organized or domiciled, or persons maintaining accounts, in the Cook Islands. The need for such enhanced scrutiny is discussed in the remainder of this Advisory.

The Cook Islands, located in the South Pacific Ocean, is an internally self-governing country in free association with New Zealand. Approximately 14,000 Cook Islanders, who are citizens of New Zealand, live on the country's many coral atolls and volcanic islands.

The Cook Islands has been developing an offshore financial services sector. Offshore entities in the Cook Islands include 30 offshore banks (seven of which are authorized to receive deposits from the public), approximately 6,000 International Business Companies, and approximately 2,000 international trusts, all regulated by the Office of the Commissioner for Offshore Financial Services. All of these offshore entities are exempt from taxation, duty liabilities, and most other restrictions and responsibilities imposed by Cook Islands domestic laws.

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of the Cook Islands suffers from serious systemic problems.

- Money laundering is not a criminal offense in the Cook Islands.
- Offshore banks licensed by the Cook Islands are not required to verify the identity of customers and are not prohibited from establishing anonymous accounts.
- Offshore banks licensed by the Cook Islands are not required to retain customer identification or transaction records.



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- Financial institutions in the Cook Islands are not required to report suspicious transactions.
  - Ownership records of Cook Islands offshore entities may be kept in nominee form.
  - Stringent secrecy provisions prevent disclosure of relevant information concerning offshore companies, including bank records, except in limited circumstances.

These deficiencies, among others, have caused the Cook Islands to be identified by the Financial Action Task Force on Money Laundering (the “FATF”) as non-cooperative “in the fight against money laundering.” The FATF, created at the 1989 G-7 Economic Summit, is a 29 member international group that works to combat money laundering.

The Cook Islands is considering legislative changes that could remedy at least some of the deficiencies described above. It is also considering establishing a domestic financial intelligence unit for counter-money laundering purposes and has sponsored a proposal to the South Pacific Forum for the possible establishment of a regional financial intelligence unit.

Nonetheless, the legal, supervisory, and regulatory systems of the Cook Islands at present create significant opportunities and tools for the laundering and protection of the proceeds of crime, and allow criminals who make use of those systems to increase significantly their chances to evade effective investigation or punishment. The Cook Islands’ commitment to bank secrecy and the absence of any supervisory or enforcement mechanisms aimed at preventing and detecting money laundering increase the possibility that transactions involving Cook Islands offshore entities and accounts will be used for illegal purposes.

Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction originating in or routed to or through the Cook Islands, or involving entities organized or domiciled, or persons maintaining accounts, in the Cook Islands. A financial institution subject to the suspicious transaction reporting rules contained in 31 C.F.R. 103.18 (formerly 31 C.F.R. 103.21) (effective April 1, 1996), and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction (of \$5,000 or more, U.S. dollar equivalent) requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious

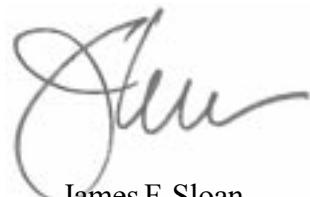
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transaction reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny does not mean that U.S. financial institutions should curtail legitimate business with the Cook Islands.

To dispel any doubt about application of the “safe harbor” to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation, for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C. 5318(g)(2) and (g)(3).

United States officials stand ready to provide appropriate technical assistance to Cook Islands officials as they work to remedy the deficiencies in the Cook Islands’ counter-money laundering systems that are the subject of this Advisory.



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Director

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