



2nd Follow-Up Report

Mutual Evaluation of Cook Islands

March 2023





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COOK ISLANDS
2ND REGULAR FOLLOW-UP REPORT 2022
Without re-ratings

I. PURPOSE

1. In accordance with the APG Mutual Evaluation Procedures 2021, this report presents for members' consideration the APG Secretariat's analysis of the Cook Islands' second follow-up report (FUR).

Key findings

The Cook Islands has taken further steps towards amending legislation that is expected to address technical compliance deficiencies identified in its Mutual Evaluation Report (MER), noting it has only two Recommendations at the PC level.

As the Cook Islands has not requested any technical compliance re-ratings, it has not been assessed against the changes to Recommendations 2, 15, 18 and 21.

Recommendations for members

It is recommended that:

- The Cook Islands remain on regular follow-up; and
- The Cook Islands provide its third FUR by 1 October 2024.

II. INTRODUCTION

2. The mutual evaluation report (MER) of the Cook Islands was adopted in July 2018. This FUR presents the progress the Cook Islands has reported in addressing the technical compliance deficiencies identified in its MER. This report does not include detailed analysis of technical compliance or analysis of any progress the Cook Islands has made to improve its effectiveness.
3. As the Cook Islands did not request re-ratings for any Recommendations, the preparation of this report was undertaken by the APG Secretariat.

III. FINDINGS OF THE MUTUAL EVALUATION REPORT

4. The MER rated¹ the Cook Islands as follows:

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Sub	Sub	Sub	Mod	Sub	Mod	Low	Low	Mod	Sub	Mod

R.	Rating	R.	Rating
1	LC	21	C
2	C	22	LC
3	LC	23	LC
4	LC	24	LC
5	LC	25	LC
6	LC	26	LC
7	PC	27	LC
8	LC	28	LC
9	C	29	LC
10	LC	30	LC
11	LC	31	LC
12	LC	32	LC
13	LC	33	LC
14	C	34	LC
15	LC	35	PC
16	LC	36	LC
17	LC	37	LC
18	LC	38	LC
19	LC	39	C
20	LC	40	LC

- Given these results, the Cook Islands was placed on regular follow-up². The Cook Islands has two Recommendations rated PC – R.7 and R.35.
- As the Cook Islands has not requested any re-ratings, it has not been assessed against the changes to Recommendations 2, 15, 18 and 21.

¹ There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

² There are three categories of follow-up based on mutual evaluation reports: regular, enhanced and enhanced (expedited). For further information see the APG Mutual Evaluation Procedures.

IV. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

4.1. Progress to address technical compliance deficiencies identified in the MER

7. The Cook Islands did not request re-ratings with any Recommendations. This section outlines a Secretariat summary of the progress reported.
8. The Cook Islands commenced its 'FTRA Legislative Project' in November 2021. This project intends to complete several legislative projects regarding the Cook Islands' Financial Transactions Reporting Act 2017 (FTRA), including:
 - a. completing the Low Risk Sectors Exemption Regulations, which would provide exemptions to certain FTRA requirements for some low risk sectors;
 - b. updating the FTRA Guidelines on e-KYC, and remote on-boarding and monitoring procedures;
 - c. developing and issuing additional CDD measures for TCSPs; and
 - d. developing a policy paper regarding the suitability of virtual asset provider licensing (rather than registration) in the Cook Islands' context.

Recommendation 7 (rated PC in the 2018 MER)

9. The Cook Islands is completing policy and drafting instructions for its Countering Terrorism and Proliferation of Weapons of Mass Destruction (Sanctions Procedures) Regulations. Development of these regulations is part of the Cook Islands' FTRA Legislative Project. A formal timeframe for the enactment of these regulations is to be determined.
10. The regulations would address several deficiencies identified in the 2018 MER, including:
 - a. an absence of mechanisms to protect the bona fide rights of third parties;
 - b. a lack of publicly known procedures to reverse the freezing of funds or other assets where persons or entities have the same or similar name as a designated entity;
 - c. a lack of mechanisms to authorise access to property in certain circumstances; and
 - d. an absence of any requirement to permit the addition to frozen accounts in certain circumstances or the payment of a contract entered into prior to listing.

Recommendation 35 (rated PC in the 2018 MER)

11. Also as part of its FTRA Legislative Project, the Cook Islands is developing an administrative penalty regime for FTRA non-compliance. A formal timeframe for the enactment of this regime is to be determined.
12. This penalty regime would address deficiencies identified in the MER relating to the coverage of penalties under the FTRA regarding R.8, R.18 and R.23.

4.2 Effectiveness Update

13. The Cook Islands' law enforcement agencies continue to embed financial investigation policies into their existing institutional frameworks, with the FIU taking a lead role in providing financial investigative support to Police and Customs investigations.

14. Joint compliance programmes are now run by FIU compliance and Financial Supervisory Commission supervisory teams.

V. CONCLUSION

15. The Cook Islands did not request technical compliance re-ratings. Some steps are noted towards addressing the few technical compliance deficiencies identified in the MER.
16. The Cook Islands has two Recommendations rated NC/PC. The Cook Islands has not yet been assessed against the changes to Recommendations 2, 15, 18 and 21.
17. The Cook Islands will remain in regular follow-up, and will continue to report to the APG on progress to strengthen its implementation of AML/CFT measures. The Cook Islands' third progress report is due 1 October 2024.