

## Executive Summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information (EOI) in the Cook Islands as well as the practical implementation of that framework. The assessment of effectiveness in practice has been performed in relation to a three-year period (1 July 2010 to 30 June 2013). The international standard which is set out in the Global Forum’s Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority’s ability to gain timely access to that information, and in turn, whether that information can be effectively exchanged with its exchange of information partners.

2. The Cook Islands’ economy is mainly driven by tourism, with international financial services making a contribution corresponding to approximately 3.2% of Gross Domestic Product. Until 1965, the Cook Islands was a dependent territory of New Zealand, with whom they retain strong legal and commercial links. Other important trading partners are Australia and Fiji. The Cook Islands is self-governing in free association with New Zealand, with full law-making powers and full capacity to enter into international agreements.

3. Relevant legal entities and arrangements for the purposes of this report comprise companies, partnerships and trusts, which are divided into domestic and international entities or arrangements, as well as foundations. There are sufficient commercial and tax obligations in place to ensure the availability of ownership information concerning domestic and foreign entities and arrangements. Anti-money laundering obligations and the governing legislation of all international entities and foundations ensure the availability of ownership information with regard to these entities. Enforcement of these provisions is secured by the existence of significant penalties for non-compliance and comprehensive systems for monitoring compliance with all relevant obligations.

4. The Cook Islands’ commercial and tax laws contain obligations to keep reliable accounting records, including underlying documentation, for at least five years in respect of domestic and foreign companies, partnerships

and trusts. Obligations were introduced in December 2013 such that international entities and arrangements must maintain accounting records in the Cook Islands for at least six years. However, it is not clear that the new obligations require that all underlying source documents be maintained for all of these entities and arrangements, and accordingly a recommendation is included to clarify this. The same applies in respect of foundations, which were introduced in 2012. Financial institutions in the Cook Islands are required to keep all records pertaining to the accounts held by them, as well as related financial and transactional information.

5. As to access to information, the competent authority of the Cook Islands is invested with broad and effective powers to gather relevant information. These powers are exercised predominately by issuing notices to require the production of relevant information and are complemented by powers to search premises and seize information as well as to compel oral testimony. Secrecy provisions in domestic laws are overridden where information is required for exchange of information purposes, and a domestic tax interest requirement is excluded. Moreover, these access powers are not restricted by prior notification requirements. In practice, the competent authority has exercised its powers to access information in a timely and efficient manner.

6. Since 2009, the Cook Islands has an emerging network of tax information exchange agreements (TIEAs), comprising 18 TIEAs signed to date, of which fourteen have since entered into force. Negotiations are currently in progress with an additional seven jurisdictions. The agreements generally follow the OECD Model TIEA, and meet the international standard in all respects.

7. The Cook Islands' practical experience with exchanging information is positive. During the review period the Cook Islands received five requests from two partners. The Competent Authority named in the Cook Islands TIEAs is the Collector of the Revenue Management Division (RMD), which is a division of the Ministry of Finance and Economic Management. The Cook Islands EOI unit is well organised and sufficiently resourced, and the Competent Authority and professional staff working on EOI have appropriate expertise and clear responsibilities. A clear procedure exists and is followed, which covers all relevant steps in the EOI process. The policies and practices with respect to confidentiality are also sound. The peer inputs received from the Cook Islands' treaty partners are very positive, with peers reporting that all requests have been answered appropriately and in a timely manner.

8. The Cook Islands has been assigned a rating for each of the 10 essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account the Phase 1 determinations and recommendations made in respect of

the Cook Islands' legal and regulatory framework, and the effectiveness of its exchange of information in practice. These ratings have been compared with the ratings assigned to other jurisdictions for each of the essential elements to ensure a consistent and comprehensive approach. On this basis, the Cook Islands has been assigned a rating of Compliant for elements A.1, A.3, B.1, B.2, C.1, C.2, C.3, C.4, and a rating of Largely Compliant for elements A.2, and C.5. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for the Cook Islands is Largely Compliant.

9. A follow up report on the steps undertaken by the Cook Islands to answer the recommendations made in this report should be provided to the PRG within twelve months of the adoption of this report.