



**MINISTRY OF FINANCE AND
ECONOMIC MANAGEMENT**

GOVERNMENT OF THE COOK ISLANDS

**POLICY ON ANTI MONEY LAUNDERING
AND COUNTER TERRORISM
FINANCING**

2018

INTRODUCTION

The Cook Islands has a reputation as a sound and well-regulated jurisdiction. It is essential for the country to maintain this reputation in order to continue attracting legitimate investors with funds and assets that are untainted by criminality. Anyone in the Cook Islands that assists with facilitating financial misconduct, whether knowingly, unintentionally or without regard to what they may be facilitating, could face law enforcement action as well as the loss of reputation and customers. This kind of conduct also damages the reputation of the Cook Islands as a whole.

The Financial Transactions Reporting Act 2017 (the Act) replaces the Financial Transactions Reporting Act 2004 and along with the Financial Transaction Reporting Regulations 2017 (the Regulations), provide the legal framework in which reporting institutions must have in place compliance systems to assist with the prevention, detection and prosecution of financial misconduct.

The Ministry of Finance and Economic Management (MFEM) is a low risk organisation in terms of its financial transactions, given that its transfer of funds into the country is only from development partners, who are governments and multilateral organisations already committed to combat money laundering and counter terrorism financing. However, the MFEM recognises that the fight against money laundering and financing terrorism is a global issue, and that an important stakeholder in the Cook Islands Government, it must be committed to play its part in the country's commitment against money laundering and financing terrorism.

This Policy aims to provide the perspective of the MFEM on money laundering and financing terrorism and the actions that it will undertake to prevent money laundering and financing terrorism. The Policy is aligned to the Practice Guidelines for Financial Transactions Reporting Act 2017, issued by the Financial Intelligence Unit, in August 2017.

This Policy also recognises the following legislations and regulations related to financial misconduct:

Bank Act 2011

Bank Amendment Act 2013

Bank Amendment Act 2015

Bank Amendment Act 2017

Financial Intelligence Amendment Act 2015

Financial Intelligence Amendment Act 2017

Financial Transaction Reporting Act 2017

Financial Transaction Reporting Amendment Act 2017

Financial Transaction Reporting Regulations 2017

Financial Transaction Reporting (Maritime Cook Islands) Regulations 2017

Countering Terrorism Proliferation of Weapons of Mass Destruction Act 2004

Terrorism Suppression Amendment Act 2007

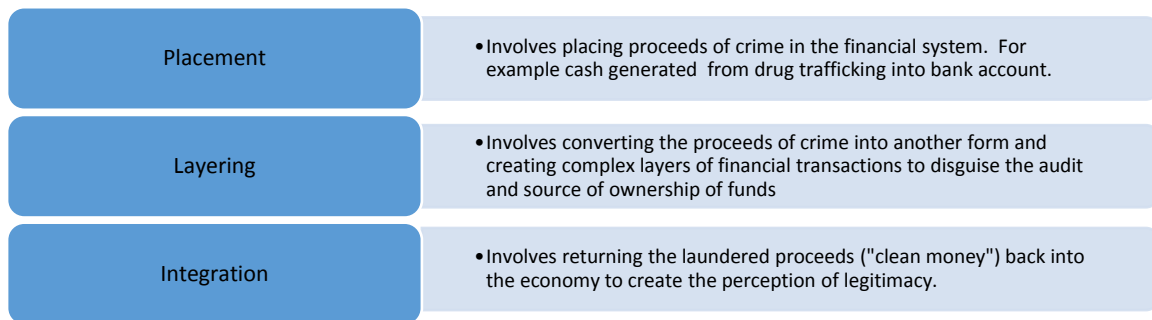
Terrorism Suppression Amendment Act 2017

Currency Declaration Act 2015-16

Currency Declaration (Forms) Regulations 2017

WHAT IS MONEY LAUNDERING?

Money laundering is any act or attempted act to disguise the source of money or assets derived from criminal activity, which is generally known as the proceeds of crime. Money laundering is a criminal offence in the Cook Islands under the Crimes Act 1969. Money laundering enables criminals such as drug dealers, terrorists, fraudsters, to amass wealth and operate and expand their criminal empires. The economic and political influence of criminal organisations weakens the social fabric, collective ethical standards, and ultimately the democratic institutions of societies such as the Cook Islands. There are three recognised stages in the money laundering process:



WHAT IS TERRORISM FINANCING?

Terrorism financing involves the collecting and providing of funds for terrorist activity. Terrorist activity has as its main objectives the intimidation of a population, or compelling a government to do something or not to do something, and this is normally achieved through violent and destructive means. The fundamental aim of terrorism financing is to obtain resources to support terrorist activities. The sums needed to mount terrorist attacks are not always large and the associated transactions are not necessarily complex.

Terrorism financing is a criminal offence in the Cook Islands under the Terrorism Suppression Act 2004.

There are two primary sources of financing for terrorist activities. The first involves getting financial support from countries, organisations or individuals. The other involves revenue-generating activities.

- **Financial support:** Terrorism could be sponsored by a country or government and other sources such as individuals and non-profit organisations.
- **Revenue generating activities:** The revenue generating activities of terrorist groups may include criminal acts, and therefore may appear similar to other criminal organisations. Kidnapping and extortion can serve a dual purpose of providing needed financial resources while furthering the main terrorist objective of intimidating the target population. In addition, terrorist groups may use smuggling, fraud, theft, robbery, and narcotics trafficking to generate funds. Financing for terrorist groups may also include legitimately earned income, which might include collection of membership dues/subscriptions, sale of publications, speaking tours, cultural and social events as well as solicitation and appeals within the community. This fundraising might be in the name of organisations with charitable or relief status, so that donors are led to believe they are giving to a legitimate cause. This type of legitimately earned financing might also include donations of personal earnings by terrorist group members.

Transactions related to terrorism financing may look a lot like those related to money laundering. Therefore, strong, comprehensive anti-money laundering regimes are essential to tracking terrorist financial activities.

The explanation of money laundering and terrorism financing serves to explain these terms for the benefit of the MFEM staff.

SCOPE

This Policy applies to all operations of MFEM, including those activities receiving funding from MFEM.

As such, this Policy should be adhered to by:

- All MFEM staff;
- Relevant persons or agencies involved in activities supported by MFEM in accordance with its vision, legislative and policy frameworks; and
- Consultants, suppliers and service providers of MFEM.

MFEM's POLICY ON ANTI-MONEY LAUNDERING (AML) AND COUNTER TERRORISM FINANCING (CTF)

The MFEM's Policy on anti-money laundering and terrorism financing should be guided by the following principles:

1. To locate and implement its AML/CFT activities within the broader context of its policies; strengthening financial systems, promoting good governance, and preventing fraud and corruption. This will ensure that MFEM's work on AML/FT will not compete with or override existing operational priorities or divert scarce financial and human resources.
2. MFEM should not attempt to duplicate the ongoing efforts and programs of Financial Intelligence Unit (FIU) and the Financial Supervisory Commission (FSC).
3. The Development Coordination Division (DCD) of the MFEM, will only conduct financial transactions with known bi-lateral and multi-lateral development partners of the Cook Islands.

MFEM's ACTIONS TO IMPLEMENT POLICY PRINCIPLES

Adopting AML/FT standards of Financial Action Task Force (FATF) and the Law

Though the MFEM is not a deposit taking institution and its treasury operations are consequently less directly exposed to money laundering and financial terrorism activity, the potential for indirect exposure may exist. For this reason, the MFEM should continue to strive towards international best practice standards in its treasury operations. These standards are driven by objectives of transparency, control and oversight.

At the same time, it is important that the MFEM continue to monitor and strengthen each procurement and consultant selection, as well as rules, procedures and systems for grant beneficiaries

and other external parties, concerned with projects funded via the MFEM. This is to ensure that MFEM funds are not misused for the purposes of money laundering and financing terrorism through fraudulent and corrupt procurement, contracting and accounting.

Through project management and audit, MFEM should also continue to advocate for strengthening grant beneficiaries and other partners, financial accounting and auditing arrangements in relation to the MFEM's project procurement and administration to prevent misuse of MFEM funds. It is also important that the MFEM continue to strengthen the system to screen sources of co-financing operations. The MFEM due diligence checklist and financial management assessment questionnaire are tools that assist in this regard.

Suspicious activity in the course of a business relationship, transaction or intended transaction must be reported to FIU. MFEM will designate a Money Laundering Reporting Officer (MLRO), who will be the focal point for reporting suspicious activity to FIU. MFEM is required to report suspicious activity within two working days of the suspicious activity arising, unless the activity involves a person of interest, in which case MFEM must report within 24 hours.

Upgrading Staff Capacity

Money laundering and financing terrorism are somewhat specialised and distinct from other professional disciplines that normal MFEM staff normally handle. However, staff need to be familiar with the subject and work with the Financial Intelligence Unit and its awareness and implementation programs. MFEM will support staff to participate in external training programs to build capacity in addressing money laundering and financing terrorism.

IMPLEMENTING THE POLICY

The MFEM has established and maintains the following procedures to discourage and prevent money laundering:

- a. Client identification procedures
 - Identifying every customer who wishes to establish a business relationship with the MFEM.
- b. Record keeping procedures
 - Gathering and retaining information on each customer so as to confirm their identity is proven true and correct.
 - Keeping all records of dealings with each Customer for 7 years
- c. Internal reporting procedures
 - Staff being able to recognize suspicious transactions and knowing that their suspicions should be reported to the MLRO.
 - The MLRO investigating reports made by Staff of suspected money laundering and reporting the suspicions, where such suspicions are reasonable to the Financial Intelligence Unit (FIU).
- d. Internal controls and communication procedures
 - Regular monitoring of implementation and budgets of projects funded by MFEM.

MONEY LAUNDERING REPORTING OFFICER

It is the responsibility of the MLRO to manage the AML processes and statutory standards expected of the MFEM, including compliance by staff with:

- a. the provisions of the AML Regulations and any other enactment relating to money laundering and terrorist financing; and
- b. the provisions of any reporting relating to money laundering and terrorist financing to FIU.

KNOWING YOUR CUSTOMER

It is in the interests of every financial services business and their customers to do all that it can to make itself unattractive to money launderers and other organized crime. One of the best ways to achieve this objective is to follow the principle of properly identifying and knowing the customer.

Two important aspects of knowing your customer is to:

- a. Be satisfied that a customer is the ultimate customer and that they are who they claim to be. This is why any applicant for MFEM funding must complete the required application processes, including the validation of legality and registration as an organisation.
- b. Ensure that sufficient information is obtained on the nature of the business that the customer expects to undertake, and any expected, or predictable pattern of transactions. This can be achieved through the project application for funding process as per the Grant Management Policy and Procedures, and in the case of applications for climate change financing, the Grant Award Procedure for climate financing mechanisms. The Due Diligence Checklist and the Financial Management Assessment Questionnaire will also contribute to an informed assessment of a project proposal, in respect to financial viability and long term sustainability; that the implementing agency management systems are sufficiently robust to guarantee funds are used for purposes intended; and that controls will be in place to support monitoring and supervision of a project.

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Policy Amended	