



## **PORTCULLIS TRUSTNET**

### **PTN eUpdates – Keeping you informed (Issue 16 – Jul 2009)**

#### **New developments in the Cook Islands**

**The Cook Islands has once again reasserted itself as a jurisdiction that has a lot to offer in terms of addressing current international issues. With the signing of its first Tax Information Exchange Agreement, a top rating by the Asia Pacific Group on Money Laundering and the establishment of the Financial Services Development Authority the Cook Islands is taking measures to ensure the development and growth of an industry that has international standing and credibility.**

#### **COOK ISLANDS AND NEW ZEALAND TAX INFORMATION EXCHANGE AGREEMENT**

On 9 July 2009, the Prime Minister of the Cook Islands, Jim Marurai and the Prime Minister of New Zealand, John Key signed a Tax Information Exchange Agreement (“TIEA”) between the governments of the Cook Islands and New Zealand at a ceremony at Avarua, Rarotonga.

The signing of the TIEA marks the first ever TIEA the Cook Islands has entered into with the Financial Secretary of the Cook Islands calling the agreement “further testament of the close and special relationship our countries enjoy”.

The TIEA provides for full exchange of information on requests in both criminal and civil tax matters and builds upon legislation in both jurisdictions which already provides for mutual assistance in criminal matters. The TIEA reflects both governments’ shared commitment to implement Organisation for Economic Cooperation and Development (“OECD”) principles of transparency and effective exchange of information, to eliminate harmful tax practices.

Under the terms of the TIEA, the Cook Islands and New Zealand have agreed to provide assistance through the exchange of information including information held by banks and other financial institutions, information regarding the ownership of companies, partnerships, trusts, foundations and ownership information on all such persons in the ownership chain including settlors, beneficiaries, trustees and protectors.

In addition to the TIEA, the Cook Islands and New Zealand governments have signed an agreement on the Allocation of Taxing Rights with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments.

Copies of the agreements will be available on the New Zealand Treasury website at [www.taxpolicy.ird.govt.nz](http://www.taxpolicy.ird.govt.nz)

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### **THE ASIA PACIFIC GROUP ON MONEY LAUNDERING (“the APG”)**

The Cook Islands has made considerable progress in relation to implementing an effective anti-money laundering system and now has one of the top assessments in the APG and by far the best in the Pacific region.

The APG is an international organization consisting of 40 members and a number of international and regional observers including the United Nations, IMF and World Bank. The APG is closely affiliated with the Financial Action Task Force (“the FATF”) and one of its key roles is to assess members’ compliance with the global Anti-Money Laundering/ Combating Terrorist Financing (“AML/CFT”) standards through mutual evaluations. In 2008-09 the APG evaluated 6 countries for their anti money laundering measures, including Bangladesh, Vietnam, the Phillipines, Pakistan, New Zealand and the Cook Islands. This was the third mutual evaluation of the Cook Islands since 2001.

The APG Mutual Evaluation Procedures assess members’ compliance with the global AMF/CFT standards as set out in the FATF’s Forty Recommendations and Nine Special Recommendations of Terrorist Financing. Each country is rated on all recommendations with the ratings ranging from Not applicable, Non-compliant, Partially compliant, Largely compliant to Compliant. The Cook Islands now has an assessment with no Non-compliant ratings and is one of the few countries in the world to achieve this.

At the 12<sup>th</sup> APG Annual Meeting held in Brisbane, Australia earlier this month, along with other matters a number of mutual evaluation reports of APG members, including that of the Cook Island, were discussed by the Plenary. A public report will be published later on in the year rating the Pacific nations’ ability to meet global standards in the fight against organized crime and terrorism however the Cook Islands in particular was recognized by the APG executive secretary Dr Gordon Hook as emerging as a leader in the battle against terrorism funding and money laundering.

For further information on the APG you can visit their website at [www.apgml.org](http://www.apgml.org)

### **THE FINANCIAL SERVICES DEVELOPMENT AUTHORITY (the “FSDA”)**

Along with the recent international developments by the Cook Islands in the tax and compliance areas the Cook Islands has also taken positive steps to develop the off shore industry with the enactment of The Financial Services Development Act 2009. This legislation provides for the establishment of a board which includes representation from Government, trust companies and international banking and insurance representatives (“the Board”). The primary objective of the Board is to encourage, promote and develop the Cook

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Islands financial services industry so as to achieve sustained growth in a manner which is economically beneficial, socially responsible and reputable. Strategic planning, advising government, liaising between government, industry operators and regulators and promotion of the industry are some of the functions the Board will be attending to. Stephen Breed, a lawyer with vast experience in the industry has been instrumental in the establishment of the Board and sees it as a way to “enable the industry to compete more effectively on the international stage”.

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