



CORRUPTION AND MONEY LAUNDERING IN THE PACIFIC: INTERTWINED CHALLENGES AND INTERLINKED RESPONSES

Dr. Chat Nguyen and
Professor W. John Hopkins

ACKNOWLEDGEMENTS

The authors would like to acknowledge the help and assistance provided by several individuals in the preparation of this report. In particular they would like to thank Professor Neil Boister (University of Canterbury) and Professor Louis De Koker (La Trobe University) for their invaluable comments on draft versions of this report; Talia Siataga for her research assistance, particularly in relation to the national reports; Hamed Tofangsaz for his work on the early part of the project and Dr Karen R. Grant for her editorial assistance. Any errors or admissions remain the responsibility of the authors.

This research has been commissioned by Transparency International New Zealand, as part of its commitment under the TI-IPP programme of Transparency International (global). This broader programme is funded by Department of Foreign Affairs and Trade (Australia), and the Ministry of Foreign Affairs and Trade (NZ)

CONTENTS

List of acronyms.....	3
1 Introduction	5
1.1 Background and context.....	5
1.1.1 Research aims.....	6
1.1.2 Methodology and structure	6
1.2 Defining corruption and money laundering	7
1.3 Interlinked international standards against corruption and money laundering	8
1.3.1 The UN Convention against Corruption (UNCAC)	9
1.3.2 Financial Action Task Force (FATF).....	9
1.3.3 The Egmont Group	11
2 Corruption and money laundering in the Pacific Islands.....	12
2.1 Regional context	12
2.2 Corruption and money laundering in the PICs	12
2.3 Regional responses	13
3 Country case studies.....	16
3.1 Fiji.....	16
3.1.1 Context	16
3.1.2 Corruption and money laundering	17
3.1.3 Legal and institutional responses	19
3.1.4 Preventive measures	20
3.1.5 Confiscation of corruption proceeds.....	20
3.1.6 Financial intelligence units (FIUs) and suspicious transaction reports	21
3.2 Papua New Guinea	21
3.2.1 Context	21
3.2.2 Corruption and money laundering	21
3.2.3 Legal and institutional responses	23
3.2.4 Preventive measures	24
3.2.5 Confiscation of corruption proceeds.....	24
3.2.6 Financial intelligence unit (FIU) and suspicious transaction reports	24
3.3 Solomon Islands	25
3.3.1 Context	25
3.3.2 Corruption and money laundering	25
3.3.3 Legal and institutional responses	27
3.3.4 Preventive measures	27
3.3.5 Confiscation of corruption proceeds.....	28

3.3.6 Financial intelligence units (FIUs) and suspicious transaction reports	28	3.6.3 Legal and institutional responses	37
3.4 Tonga.....	29	3.6.4 Preventive measures	37
3.4.1 Context	29	3.6.5 Confiscation of corruption proceeds	37
3.4.2 Corruption and money laundering	29	3.6.6 Financial intelligence unit (FIU) and suspicious transaction reports	37
3.4.3 Legal and institutional responses	30	3.7 Vanuatu.....	38
3.4.4 Preventive measures	30	3.7.1 Context	38
3.4.5 Confiscation of corruption proceeds	31	3.7.2 Corruption and money laundering	39
3.4.6 Financial intelligence unit (FIU) and suspicious transaction reports	31	3.7.3 Legal and institutional responses	41
3.5 Cook Islands	32	3.7.4 Preventive measures	41
3.5.1 Context	32	3.7.5 Confiscation of corruption proceeds	42
3.5.2 Corruption and money laundering	32	3.7.6 Financial intelligence unit (FIU) and suspicious transaction reports	42
3.5.3 Legal and institutional responses	33	4 Conclusion and Recommendations	44
3.5.4 Preventive measures	34	Recommendation 1	44
3.5.5 Confiscation of corruption proceeds	34	Recommendation 2	45
3.5.6 Financial Intelligence Unit (FIU) and suspicious transaction reports	34	Recommendation 3	45
3.6 Samoa	35	Recommendation 4	45
3.6.1 Context	35	Recommendation 5	46
3.6.2 Corruption and money laundering	35	5 Bibliography	47

LIST OF ACRONYMS

ACC	Anti-Corruption Committee	DNFBP	Designated Non-Financial Business and Professions
ADB	Asian Development Bank	DPP	Director of Public Prosecutions
AGO	Attorney-General's Office	FASU	Financial Analysis and Supervision Unit
AML	Anti-Money Laundering	FATF	Financial Action Task Force
AML-CFT	Anti-Money Laundering and Countering Financing of Terrorism Act	FI	Financial institutions
APG	Asia/Pacific Group on Money Laundering	FICAC	Fiji Independent Commission against Corruption
APIFIU	Association of Pacific Island FIUs	FIU	Financial Intelligence Unit
ARIN-AP	Asset Recovery Interagency Network – Asia-Pacific	FIUA	Financial Intelligence Unit Act
AUSTRAC	Australian Transaction Reports and Analysis Centre	FIUA	Financial Intelligence Unit Act
BCR	Border Currency Report	FSC	Financial Supervisory Commission
BSP	Bank of South Pacific	FTR	Financial Transactions Reporting
CBS	Central Bank of Samoa	FTRA	Financial Transactions Reporting Act
CBSI	Central Bank of Solomon Islands	IBC	International Business Company
CCECC	China Civil Engineering Construction Corporation	IMF	International Monetary Fund
CDA	Currency Declaration Act	MACMA	Mutual Assistance in Criminal Matters Act
CDD	Customer Due Diligence	MFEM	Ministry of Finance and Economic Management
CINIT	Cook Islands National Intelligence Taskforce	ML	Money Laundering
CLO	Crown Law Office	MLP	Money-Laundering Prevention
COM	Council of Ministers	MLPA	Money Laundering Act
CPI	Corruption Perception Index	MLPCA	Money Laundering and Proceeds of Crime Act
CSB	Capital Security Bank Limited	MOA	Memorandum of Agreement
CTF	Counter-Terrorism Financing	NAMLC	National Anti-Money Laundering Council
CTTOCA	Counter Terrorism and Transnational Organised Crime Act	NCC	National Coordinating Committee
		NCD	National Capital District

NRBT	National Reserve Bank of Tonga	SIFA	Samoa International Finance Authority
ODPP	Office of the Director of Public Prosecutions	SIFIU	Solomon Islands Financial Intelligence Unit
OECD	Organisation for Economic Co-operation and Development	SMR	Suspicious Matter Report
OFC	Offshore Finance Centre	SPV	Special Purpose Vehicle
OPP	Office of the Public Prosecutor	STR	Suspicious transaction reports
PEP	Politically Exposed Person	TCSP	Trust and company service providers
PIC	Pacific Island Country	TCU	Transnational Crime Unit
PICP	Pacific Islands Chiefs of Police	TI	Transparency International
PIF	Pacific Island Forum	TMO	Telegraphic Money Orders
PILON	Pacific Islands Law Officers' Network	TRA	Transaction Reporting Authority
PINA	Pacific Islands News Association	UK	United Kingdom
POCA	Proceeds of Crime Act	UN	United Nations
PTCCC	Pacific Transnational Crime Coordination Centre	UNCAC	United Nations Convention against Corruption
PTCN	Pacific Transnational Crime Network	UNDOC	United Nations Office on Drugs and Crime
PWD	Public Works Department	US	United States
RBF	Reserve Bank of Fiji	VFIU	Vanuatu Financial Intel
RI	Reporting institution		
RPNGC	Royal PNG Constabulary		
RSIPF	Royal Solomon Islands Police Force		

01 INTRODUCTION

1.1 BACKGROUND AND CONTEXT

Corruption and money laundering (ML) are related and self-reinforcing phenomena.¹ The proceeds of corruption are often disguised and laundered through various typologies by corrupt officials and individuals.² Money launderers might bribe law enforcement officials, legal professionals, accountants, bankers and company formation agents in order to make money laundering successful.³ Corrupt officials certainly do not want to implement an effective anti-money laundering (AML) regime. Corruption therefore undermines the political willingness to fight money laundering. Corruption in AML institutions, e.g., in financial regulators and policy makers, may hinder the actual implementation and enforcement of AML laws.⁴ This project will examine how this interaction has occurred in the context of selected developing Pacific Island Countries (PICs).

Corruption is prevalent in most PICs and, thus, there is no doubt that the proceeds generated from domestic corruption have been laundered nationally and transnationally.⁵ Money laundering in the Pacific has shifted from being primarily national in its operation to having a transnational dimension.⁶ Money laundering has been facilitated by economic globalisation and the rapid development of information technology. Developing economies with lax AML regulations, poorly equipped to address these innovations (like many PICs), are attractive transit economies and destinations for tainted funds. Technological advances have driven increasing use of shell companies both from on- and offshore jurisdictions, for instance, as an increasingly common mechanism to hide and launder the proceeds of grand corruption in the Asia-Pacific region.⁷ Several tax havens in the Pacific provide offshore safe deposit boxes capable of hiding illicit assets, including the

1 See the explanation and cases in, e.g., David Chakin and JC Sharman *Corruption and Money Laundering: A Symbiotic Relationship* (Palgrave Macmillan, New York, 2009) at 21–30; and Peter Alldridge *Money Laundering Law Forfeiture, Confiscation, Civil Recovery, Criminal Laundering, and Taxation of the Proceeds of Crime* (Hart Publishing, Oxford, 2003), at 33–34.

2 Different typologies are described in, e.g., Financial Action Task Force (FATF) *Laundering the Proceeds of Corruption* (FATF/OECD, Paris, 2011).

3 See, e.g., Alldridge, above n 1.

4 See more in Norman Mugarura “The Effect of Corruption Factor in Harnessing Global Anti-Money Laundering Regimes” (2010) 13(3) *Journal of Money Laundering Control* 272 at 275–278.

5 See Transparency International (2019) *The Corruption Perceptions Index (CPI)* (11 January 2020); Transparency International *Corruption Challenges in Small Island Developing States in the Pacific Region* (2010); and Graham Hassell (2019) “Law, Culture, and Corruption in the Pacific Islands” (15) *New Zealand Yearbook of International Law* at 9–28.

6 Asia/Pacific Group on Money Laundering (APG) *APG Typologies Report on Fraud & Money Laundering in the Pacific* (APG, Sydney, 2016).

7 Jason Sharman *Tackling Shell Companies: Limiting the Opportunities to Hide Proceeds of Corruption* (U4 Anti-Corruption Resource Centre, Bergen, 2012).

proceeds of corruption.⁸ The mapping elements of this project will examine the scale of actual corruption-related money laundering in PICs, and the extent to which these countries are, or could become, havens for the proceeds of corruption.

The inter-dependant relationship between corruption and money laundering should be responded to in a way that recognises that dependency, using tools available against the one to indirectly also combat the other. The approaches and counter-measures applied to ML should be utilised in the fight against corruption, such as gathering financial intelligence (e.g., Customer Due Diligence and Suspicious Transaction Reporting regulations), confiscating the proceeds of crime, and the use of Financial Intelligence Units (FIUs).

This research will analyse the primary AML standards that are most relevant and applicable to anti-corruption. It also will examine the capacity and practice of implementing these standards in the Pacific, and then suggest future reforms to improve PICs' capacity in this regard.

1.1.1 Research Aims

This project aims to cover the following research objectives:

- i) To identify the vulnerabilities of PICs derived from the nexus of corruption and money laundering;
- ii) To examine the extent to which PICs are, and could be, havens, or transition points for the proceeds of corruption;
- iii) To map the existence and examine the effectiveness of the legal and policy mechanisms to ensure that the corporate, social-cultural and financial systems of PICs are not abused by the link between corruption and money laundering;
- iv) To describe and assess the risks related to corrupt transnational money flows, including the extent to which these risks

are known and understood across the Pacific forum countries.

- v) To review recent cases of corruption and/or money laundering in the region, including cross-border cases, with the aim of identifying the nexus between corruption and ML and its transnational dimensions;
- vi) To provide in depth case studies of seven state members of the Pacific Island Forum (PIF), chosen to represent various backgrounds of PIF states. These states are: a) those with a developed financial sector and possible high degree of exposure to transnational criminals (Fiji), b) those where the financial sector is undeveloped and there is a significant internal corruption (Solomon Islands, Papua New Guinea and Tonga), and c) those with a history of operating as an offshore financial centre (Cook Islands, Samoa and Vanuatu).
- vii) To recognise best practice and provide recommendations to inform policy and future advocacy efforts in the Pacific region.

1.1.2 Methodology and structure

The study was undertaken through desktop research in New Zealand and qualitative empirical research, as outline below.

The desktop research brought together existing academic and policy work on AML and anti-corruption in the Pacific. In addition, it collated and analysed existing case law, legal frameworks, and international agreements in the field of AML as relevant to the inter-connection with anti-corruption. The desktop research also provided the researchers with a preliminary assessment of the existing legal frameworks and policies on dealing with corruption-related money laundering.

The team intended to supplement the existing research undertaken on money-laundering and corruption in the Pacific with in-country expertise and interviews. However, this proved difficult

8 Anthony van Fossen *Tax Havens and Sovereignty in the Pacific Islands* (University of Queensland Press, St Lucia, 2012) at 1–4.

for a number of practical reasons, not least of which were the problems created by COVID-19. Although the team did conduct informal discussions with Pacific partners during the research process, the final report relies heavily on existing work examining corruption and money-laundering as separate issues. Despite these limitations, the team is confident in the accuracy for the overall analysis and conclusions.

The research team adopted a socio-legal methodology in assessing the actual operation of the existing legal and policy frameworks, rather than merely assessing the legal and academic merit of the frameworks. This provided for a fuller understanding of the strengths and weaknesses of the current system, and provided for a deeper and more effective analysis, leading to more informed and relevant outputs.

Following the introduction, this report discusses the definition of corruption and money laundering adopted by PICs. These definitions underpinned the assessment of the scale of corruption-related money laundering. Next, the report outlines the most relevant international AML standards that can be utilised in combating corruption. These standards serve as the benchmark for assessing PICs' measures against corruption-related money laundering. Then, the report provides the general regional context, an overview of corruption and ML in the Pacific, and regional responses to corruption and ML. After that, seven country case studies are discussed in detail. Last but not least, a number of recommendations are offered at the end of the report.

1.2 DEFINING CORRUPTION AND MONEY LAUNDERING

There is no international agreement on a generic definition of corruption. Corruption has been defined differently by a number of international organisations using various approaches and purpose driven definitions. Transparency International (TI), for example, defines corruption as 'the use of public office for private gain'.⁹ This abuse can be classified as grand, petty and political corruption depending on the amounts of money involved and the sector where it occurs. This definition has been referenced widely for policy development, action plans and corruption prevention measures.

The United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), and the Council of Europe do not define corruption. Instead, they provide criminal offences for a range of corrupt activities. International conventions establish international standards on the criminalisation of corruption by prescribing specific offences, rather than

providing a generic definition or offence of corruption. The United Nations Convention against Corruption (UNCAC), for example, defines various forms of corruption, thereby illustrating how the proceeds of corruption might be generated.¹⁰ These include passive or active bribery; embezzlement and misappropriation; obstruction of justice; trading in influence; abuse of functions and illicit enrichment. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions introduces bribery of foreign public officials as an offence. National anti-corruption agencies tend to follow these international definitions of corruption offences in the investigation and prosecution of corruption.

This report will focus specifically upon the corruption offences of bribery, embezzlement, misappropriation or other diversion of property by a public official, described in articles 15-17 of UNCAC. The justification for the focus is that

⁹ Transparency International "What is Corruption?" <<https://www.transparency.org/en/what-is-corruption#define>>.

¹⁰ United Nations Convention against Corruption, articles 15–22.

these are mandatory offences under UNCAC, which requires its state parties to establish them as crimes in their domestic law. And the majority of PICs have acceded to UNCAC and criminalised these offences.¹¹

Money laundering can be understood as the process of converting the proceeds derived from underlying criminal offences (known as predicate offences) into legitimate property. Article 23 of UNCAC provides for the criminalisation of money laundering. Criminals engage in money laundering to shield the proceeds of illegal activity from suspicion, investigation and seizure.

The proceeds of corruption can be laundered through various mechanisms, such as the use of corporate vehicles and trusts, gatekeepers, nominees, family members and/or cash.¹²

A corporate vehicle can be created as part of a series of multi-jurisdictional structures, in which a corporation in one jurisdiction is owned by one or more other corporations or trusts in other jurisdictions. Specialised intermediaries and professionals can be used to conceal true ownership and/or to disguise the beneficial owner of the underlying asset. Gatekeepers, particularly lawyers, can be used to create corporate vehicles, open bank accounts,

transfer proceeds, purchase property, courier cash, and employ other means to bypass AML regulations. In addition, lawyers can also be used to exploit lawyer-client privilege and shield the identity of corrupt politically exposed persons (PEPs). PEPs are defined by the Financial Action Task Force (FATF) as individuals entrusted with a prominent public function (e.g., heads of governments or ministers). PEPs (both overseas and domestic, including international organisation PEPs), their family members and close associates are more susceptible to corruption and, consequently, money laundering.

Risks posed by the corruption-money laundering nexus are various. Corrupt officials might impair financial institutions (e.g., banks, securities firms, insurance companies, foreign exchange dealers, and money remitters) and harm Designated Non-Financial Businesses or Professions (e.g., casinos, lawyers, accountants, real estate agents, dealers in precious metals or stones, and trust and company service providers). PEPs are in positions that potentially can be abused for the purpose of committing money laundering and corruption.¹³ This includes the vulnerability of judicial and prosecutorial systems to improper political influence.

1.3 INTERLINKED INTERNATIONAL STANDARDS AGAINST CORRUPTION AND MONEY LAUNDERING

The United Nations (particularly the United Nations Office on Drugs and Crime (UNODC), International Monetary Fund (IMF), World Bank, and FATF, along with FATF-style regional bodies (e.g., the Asia/Pacific Group on Money Laundering (APG)), all recognise that the fight against corruption includes an effort to combat the laundering of the proceeds of corruption. A robust and effectively implemented anti-money

laundering legal framework is thus crucial to a successful anti-corruption regime.

Several international conventions and initiatives have therefore recognised the corruption-money laundering nexus and introduced measures to deal with laundering-related corruption. An effective AML regime can contribute significantly to the detection of corruption and related offences by providing the basis for financial investigations. It should be highlighted

¹¹ UNDP *Pacific Anti-corruption Factsheet* (2020).

¹² FATF, above n 2, at 16–25.

¹³ FATF *FATF Guidance: Politically Exposed Persons (Recommendations 12 and 22)* (2013) at 3.

that there are a diversity of overlapping AML and anti-corruption measures. However, this report is confined to the main initiatives and measures with potential deployment in PICs.

1.3.1 The UN Convention against Corruption (UNCAC)

The Convention in its preamble lays out the connection between money laundering and corruption.¹⁴ The Convention also implies that state parties should criminalise corruption as a predicate crime of money laundering. The importance of criminalising corruption as a predicate crime of money laundering lies in the fact that if corruption is regarded as a stand-alone offence without any connection to money laundering, then there is no guarantee that laundering the proceeds of corruption will be criminalised. In addition, such separation hinders the use of anti-money laundering measures in the fight against corruption.

Identifying and recording obligations as well as reporting suspicious transactions required by UNCAC will facilitate detection of the crime of money laundering and will help to identify the criminal acts from which the illicit proceeds originated.

Article 14 of the Convention requires state parties to set up an anti-money laundering regime, including customer due diligence and a suspicious transaction reporting system (STR) in line with the standards of existing AML bodies. It also requires arrangements to monitor the movement of cash and negotiable instruments across their borders and the establishment of appropriate measures to trace transaction information on electronic transfers.

Article 52 holds that countries should establish 'enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates'.

Article 58 encourages state parties to establish 'a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions'.

1.3.2 Financial Action Task Force (FATF)

The FATF (an ad hoc inter-governmental institution as it has no treaty basis) has an on-going and profound impact on the development of multidimensional international AML standards, known as the FATF Recommendations. Although the standards are called 'Recommendations', countries face grey- or blacklisting if they fail to comply. As a result, states which refuse to comply with them can face significant consequences. Although the FATF has focused on developing countermeasures against money laundering and terrorist financing, its measures can also be used to combat and prevent corruption. In terms of fighting against corruption, the FATF, through its recommendations, provides for various measures, including customer due diligence (CDD), record keeping obligations and confiscation of the proceeds of corruption.

Customer due diligence and record keeping

Recommendation 10 requires financial institutions (FIs) and Designated Non-Financial Business and Professions (DNFBPs) to 'verify the identity of the customer, any person on whose behalf a customer is acting, and any individuals who ultimately own or control customers that are legal persons (such as companies) or legal arrangements (such as trusts)'. FIs and DNFBPs should take 'enhanced' precautions when it comes to customers or transactions posing a higher risk of money laundering, e.g., when they deal with PEPs, their associates or family members.¹⁵ This is considered to be useful when FIs and DNFBPs assess suspicious transactions, for example, when a public official receives monies greater than their usual income. Recommendations 12 and 22 therefore requires

14 Article 7 of the OECD Anti-Bribery Convention criminalises the bribery of public official as a predicate offence 'for the purpose of the application of its money laundering legislation'.

15 FATF *The use of the FATF Recommendations to combat corruption* (FATF/OECD, Paris, 2013) at 2.

FIs and DNFBPs to undertake enhanced due diligence in these instances. This includes taking 'reasonable measures to establish the source of wealth and source of funds'; conducting 'enhanced ongoing monitoring of the business relationship' and obtaining 'senior management approval for establishing (or continuing, for existing customers) such business relationships'.

To trace the proceeds of corruption and use such information in judicial proceedings, if necessary, FATF Recommendation 11 requires financial institutions to keep all the records obtained through CDD measures as well as 'account files and business correspondence, including the results of any analysis undertaken'.

Sharing of financial information, and ensuring transparency of legal persons and arrangements

FATF Recommendation 18 requires the implementation of 'group-wide programmes against money laundering and terrorist financing, including policies and procedures for sharing information within the group for AML/CFT purposes'. FATF also recommends that anti-corruption agencies should effectively share information across such groups 'as CDD and transaction information may provide a valuable source for investigators tracing the movement of corrupt proceeds internationally'.¹⁶

As a result of the increase in the misuse of legal entities by launderers and those engaging in corruption, the FATF requires the adoption and implementation of appropriate measures to make it difficult for criminals to misuse such entities. In this regard, FATF Recommendation 24 provided that countries' authorities should have access to adequate, accurate and timely information on beneficial ownership, and control of legal persons and other legal arrangements (for example, companies or trusts). It is important to note that in February 2022 the FATF revised Recommendation 24 with a view to strengthening its effectiveness. One significant change is the

explicit recognition of registers of beneficial ownership ('or an alternative mechanism') as a means to ensure that 'the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by competent authorities'. There is no suggestion, however that such registers should be public and it is less than clear at this stage what the impact of the revised Recommendation will be in practice.

Measures to protect the integrity of FIs and DNFBPs

Corrupt officials often try to control and infiltrate FIs and DNFBPs in order to launder the proceeds. The FATF therefore recommends measures which help to protect integrity of these institutions. Recommendations 26 and 28 provide that these institutions 'should be licensed or registered, and subject to effective systems for monitoring and ensuring compliance', and that their employees, controllers or owners are properly vetted (fit and proper test).

In relation to cross-border correspondence banking and other similar relationships, the FATF requires the performance of due diligence, for example, the gathering of sufficient information about a respondent institution and assessment of money laundering risks prior to entering a relationship.

Confiscation of the proceeds of corruption

One of the most valuable tools to deal with corruption is the establishment of an effective seizure and confiscation regime. Confiscation removes the main incentive for committing corruption by depriving corrupt criminals of their proceeds of crime. FATF Recommendation 4 therefore requires countries to adopt and implement measures to enable authorities to freeze and/or confiscate 'property laundered, proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences, or property of corresponding value'. The FATF emphasises the importance of civil confiscation, known as non-conviction-

¹⁶ At 2.

based confiscation, which allows confiscation of corruption proceeds without the need to obtain a criminal conviction against corrupt criminals.

Financial intelligence units (FIUs) and suspicious transaction reports (STRs)

FIUs play a central role in the anti-money laundering regime. They are responsible for analysing and reporting to related authorities information about suspicious transactions (associated with predicate offences including corruption) obtained from financial institutions, DNFBPs and others. Effective FIUs can detect corruption and trigger investigation and prosecution.¹⁷

1.3.3 The Egmont Group

The Egmont Group describes itself as the operational arm of the global international Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) apparatus and acts as an informal international organisation for FIUs. It currently provides a mechanism for co-operation and the secure exchange of expertise and intelligence to combat money laundering and terrorist financing for its 167 members. It focusses on delivering the resolutions and statements by the United Nations Security Council, the FATF and the G20 Finance Ministers in relation to AML/CTF. Although PICs are represented in the Egmont Group, membership is not universal. Six of the states examined in this report are currently members (Cook Islands, Fiji, PNG, Samoa, Solomon Islands and Vanuatu) as well as the Republic of the Marshall Islands and Niue (outside the focus of this study). These eight states are the only PIC members.¹⁸

The UNODC's Global Operation Network of Anti-Corruption law enforcement Authorities (GlobE Network) is also relevant in the space but at the present time, Fiji is the only PIC member.

¹⁷ At 13.

¹⁸ Egmont Group "Members by Region" <<https://egmontgroup.org/>>.

02

CORRUPTION AND MONEY-LAUNDERING IN THE PACIFIC ISLANDS

2.1 REGIONAL CONTEXT

The South Pacific is a unique and diverse region made up of thousands of islands located between the Americas (to the east), Australia and New Zealand (south/southwest) and Asia (west/northwest). The region comprises three sub-regions: Melanesia (Fiji, Vanuatu, the Solomon Islands, and Papua New Guinea), Micronesia (Palau, Nauru, Marshall Islands, Kiribati, and Federated States of Micronesia), and Polynesia (Tuvalu, Wallis and Futuna, Tokelau, Samoa, American Samoa, Tonga, Niue, the Cook Islands, and French Polynesia). Pacific Island Countries exhibit great diversity across the region in terms of geography, population, political systems and economy. This is hardly surprising given the immense size of the region, with the distance between the two capital cities of the most distant

states (French Polynesia and Palau) being greater than that between Beijing and London.

Although the majority of PICs are isolated and sparsely populated, they also vary considerably in population size. Papua New Guinea, the most populous state, has a population of around 9 million, whereas Tuvalu and Nauru have populations of around 11,000 each.¹⁹ Many PICs are themselves extremely diverse with a vast array of languages, religions and identities.²⁰ The region has experienced prolific economic and political instability following recent independence from colonial powers. PICs consist of both developing and least developed economies, although the region is rich in natural resources, such as marine products, timber, metals and minerals.

2.2 CORRUPTION AND MONEY-LAUNDERING IN THE PICs

Corruption in the PICs exists in many sectors and in various forms.²¹ Corruption in both law enforcement and the public service is problematic across the region. The extent and pattern of corruption varies across the PICs.²² However, many countries share common forms

of corruption, including bribery, nepotism, cronyism, and political corruption. The sectors most vulnerable to corruption are: natural resources (mineral and petroleum extraction industries, forestry, and fisheries), public administration and services (police, customs,

19 WB "The World Bank In Pacific Islands" <<https://www.worldbank.org/en/country/pacificislands/overview#1>>.

20 Solomon Islands, for example, has 63 languages, and Vanuatu has over 100 languages.

21 Transparency International "Global Corruption Barometer Pacific: A First for People's Voices on Corruption" (2021) <<https://www.transparency.org/en/news/gcb-pacific-2021-survey-people-voices-corruption-bribery>>.

22 APG PILON/APG *Typologies Report – Recovering the Proceeds of Corruption in the Pacific* (APG, Sydney, 2016) at 5–7.

land and titles administration), overseas development aid, and offshore banking.²³ However, it can be extremely difficult to determine the true levels of corruption in PICs. There are various difficulties in measuring the scale of corruption in the region, including different approaches to the definition of corruption, under-reporting and statistical unreliability.²⁴

In terms of money laundering, the regional FIUs and the Asia Pacific Group on Money

Laundering (APG) have identified various money laundering techniques in the PICs. These include cash smuggling; wire transfers; structured cash deposits and the use of remittances. The APG has also highlighted an increasing presence of criminal gangs in the PICs, including through familial connections.²⁵ These gangs and their connections provide an optimal setting for moving illicit funds in and out of the region. Some PICs have also been used as tax havens to hide illegal funds.

2.3 REGIONAL RESPONSES

Various recent initiatives have been put in place to advance collective regional commitment to combat corruption and money laundering in the region. In February 2020, the Pacific Regional Conference on Anti-Corruption achieved consensus on a roadmap to implement anti-corruption practices, through the 'Teieniwa Vision'.²⁶ This document, committed Pacific leaders to 'champion integrity, advocating for and implementing best anti-corruption practices through a commitment to the criminalisation of corruption and to prompt, impartial investigation and prosecution'.²⁷ The Vision was endorsed by the Pacific Island Forum leaders in February 2021.²⁸ At the Pacific Islands News Association (PINA) CEO Summit 2021 on 'Integrity & Anti-Corruption in the Pacific', as the Forum's Secretary General (Henry Puna) commented that the regional commitment to achieve Pacific unity against corruption would require significant commitment on the part of the region to be implemented, noting that "the moment where

the signatures are done, and Leaders walk away is the point at which the real work begins".²⁹

The Pacific Islands Law Officers' Network (PILON), a network of senior law officers from Pacific countries, identified corruption as a strategic priority in its 2019–2021 Strategic Plan.³⁰ PILON has set up the Corruption Working Group to strengthen the prosecution of corruption offences in the region. The current members of the Corruption Working Group are Nauru (Chair), Palau, Australia, Republic of the Cook Islands, Marshall Islands, Federated States of Micronesia, Solomon Islands, American Samoa, and Papua New Guinea.

The Association of Pacific Island FIUs (APIFIU), established on 21 July 2011, is an association of FIUs of the Pacific Island countries. The main objectives of APIFIU are: i) to provide a forum for the sharing and exchange of information, ideas, experiences and concerns, and for identifying solutions to combating money laundering

23 U4 *Pacific Island countries: Overview of corruption and anti-corruption* (2020) at 3–5.

24 Peter Larmour "How much corruption is there in the Pacific islands? A review of different approaches to measurement" (2009) 24(1) *Pacific Economic Bulletin* 144 at 145–146.

25 APG *Yearly Typologies Report: Methods and Trends of Money Laundering and Terrorism Financing* (APG, Sydney, 2019).

26 UNODC *Teieniwa Vision* (2020).

27 UNDP "Anti-Corruption commitment by Pacific Leaders welcomed" (2021) <https://www.pacific.undp.org/content/pacific/en/home/presscenter/pressreleases/2021/Anti_Corruption_Committment_by_Pacific_leaders_welcomed.html>.

28 <https://www.forumsec.org/2021/02/09/summary-of-decisions-pacific-islands-forum-special-leaders-retreat-3-feb-2021/>

29 <https://www.forumsec.org/2021/09/15/focus-on-the-teieniwa-vision-forum-sg-puna-keynote-to-pina-media-leaders-2021-pina-2nd-ceo-media-summit-on-integrity-anti-corruption/>.

30 PILON "Corruption Working Group" <<https://pilonsec.org/our-work/working-groups/corruption/>>.

and financing of terrorism and other serious offences in the member jurisdictions, which are often unique to the member FIUs; ii) to organise relevant training workshops in cooperation and where necessary, in consultation with member FIUs, and other relevant institutions in member countries; and iii) to promote public awareness and education on AML/CFT within the member countries. The current 11 members of APIFIU are: Cook Islands, Fiji, Nauru, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, and Vanuatu.

Founded in 1970, the Pacific Islands Chiefs of Police (PICP) is a regional organisation of police forces where the Pacific Police Chiefs of 21 member countries can exchange information, share knowledge, and form regional co-operation agreements. Responding to transnational crime is one of the PICP's focused programmes. As a consequence of this, the Pacific Transnational Crime Network (PTCN) was established in 2002 to manage and coordinate criminal intelligence and enhance investigative capability in combating transnational crime in the Pacific. The PTCN comprises the Pacific Transnational Crime Coordination Centre (PTCCC) in Samoa, and 28 Transnational Crime Units (TCUs) based in 20 PICs. The PTCN is supported by the Australian Federal Police, New Zealand Police and the United States Joint Interagency Task Force West.³¹

Collectively, these organisations provide a limited architecture for regional responses to corruption and money-laundering. However, integration between them remains incomplete and the organisations and institutions are in the main informal. In common with much Pacific Island co-operation, institutional formality is limited.

31 PICP "Pacific Transnational Crime Network" <<https://picp.co.nz/our-work/pacific-transnational-crime-network/>>.



CASE STUDIES

03

COUNTRY CASE STUDIES

3.1 FIJI

3.1.1 Context

The Republic of Fiji ('Fiji') consists of approximately 300 islands with a total area of almost 194,000 square kilometres. It has a population of around 893,000.³² The two main islands of Viti Levu and Vanua Levu (10,400 and 5,500 square kilometres respectively) account for more than half of Fiji's total land area. The two main cities, located on Viti Levu, are the capital Suva and Lautoka. Fiji has one of the most developed economies in the region.

The factors that make Fiji vulnerable to money laundering include its strategic location, porous border, and cash-based economy. Fiji is positioned 2,781 kilometres east of Queensland, Australia, midway between Vanuatu and Tonga. This central position means that Fiji serves as a regional hub for transportation and shipping for other PICs. Fiji is also considered as a potential staging point for criminal activities in Australia and New Zealand.

Transnational criminal enterprises and individuals from Asian countries are also alleged to operate in Fiji.³³ Cash is a significant component of Fiji's economy. The movement of funds, both cash and electronic wire transfers, originating from offshore has been identified as a potential facilitator for ML in and through Fiji. Fiji's FIU has noted an increase in the use of alternative technology and channels to transfer funds (e.g., the use of Post Fiji telegraphic money orders (TMO) and PayPal). In some instances, the use of these channels is to deliberately avoid detection.³⁴ The APG has identified that Fiji's banking, real estate and foreign exchange sectors are the most vulnerable sectors for money laundering of illicit funds generated from narco-trafficking, corruption and tax evasion.³⁵

32 Fiji Bureau of Statistics "Population Censuses and Surveys"
<<https://www.statsfiji.gov.fj/statistics/population-censuses-and-surveys.html>>.

33 US Department of State *International Narcotics Control Strategy Report (INCSR) Vol II: Money Laundering assessment* (2016).

34 FijiFIU *2020 Annual Report* (2020) at 85.

35 APG *Anti-money laundering and counter-terrorist financing measures (Fiji) – Mutual Evaluation Report* (APG, Sydney, 2016) at 3.

To encourage investment and create economic opportunities in Fiji, the government has declared certain areas to be tax free regions.³⁶ The incentives attached to these areas include a multi-year corporate tax holiday and import duty exemption on raw materials, machinery, and equipment for initial setup. Fiji is currently blacklisted by the EU as a tax-haven and one of nine jurisdictions recognised as 'non-cooperative'.³⁷ Although there is limited information available on the transnational flows of illicit funds into and through Fiji, there are known cases where overseas illicit funds were transferred through Fiji's financial institutions and integrated into Fiji's economy.³⁸ The proceeds of foreign corruption may be finding its way into Fiji. Fiji's relatively diverse financial sector creates a number of vulnerabilities which could lead to an escalation of money laundering.

3.1.2 Corruption and money laundering

Bribery is one of the most common forms of corruption in Fiji. Small-scale bribery (petty corruption) is pervasive.³⁹ In recent years, several high-level officials have faced charges of corruption. In 2017, the Fiji's Education Minister allegedly offered a steady water source to a high school in exchange for the school manager's vote. He was charged with bribery and using undue influence.⁴⁰ The former Fijian Ambassador to the United States was charged with obtaining a financial advantage after causing payment to be made to himself from the Washington Embassy funds between 2016 and 2017.⁴¹ The anti-corruption commission recently investigated allegations of corrupt activities by eight members of Fiji's parliament for claiming travel and accommodation allowances to which they were not entitled.⁴²

However, corruption is not a major predicate offence for ML in Fiji.⁴³ In addition, many corruption cases have not been fully addressed by the authorities. In particular, the money laundering aspect is generally not referred for investigation and prosecution. Money laundering investigation, prosecution, and recovery of corruption proceeds has not been actively pursued.⁴⁴

36 PWC "Corporate – Tax credits and incentives (Fiji)" (2022) <<https://taxsummaries.pwc.com/fiji/corporate/tax-credits-and-incentives>>.

37 EU "Timeline – EU list of non-cooperative jurisdictions" (2021) <<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/timeline-eu-list-of-non-cooperative-jurisdictions/>>.

38 FijiFIU, above n 4.

39 U4, above n 23.

40 "Fiji education minister charged with bribery" RNZ (New Zealand, 4 July 2017) <<https://www.rnz.co.nz/international/pacific-news/334442/fiji-education-minister-charged-with-bribery>>.

41 Fiji Independent Commission Against Corruption 2020.

42 "Nine MPs in Fiji investigated over allowances" RNZ (New Zealand, 17 June 2020) <<https://www.rnz.co.nz/international/pacific-news/419202/nine-mps-in-fiji-investigated-over-allowances>>.

43 APG *Anti-money laundering and counter-terrorist financing measures (Fiji) - Mutual Evaluation Report* (APG, Sydney, 2016) at 3.

44 At 23.

CASE EXAMPLE

Chaudhry v State [2012] FJLawRp 82; (2012) 2 FLR 175 (25 July 2012)

Money Laundering – Corruption – Foreign Currency – Tax Evasion

Mr Mahendra Pal Chaudhry, who was the Prime Minister of Fiji during 2001 and 2002, was charged with breach of the Exchange Control Act, money laundering and making false statements in his income tax returns. Mr Chaudhry himself was the Minister of Finance when the allegations against him surfaced. The charges related to:

- Between 2000 and 2010, Mr Chaudhry being a resident in Fiji entitled to sell foreign currency but not being an authorised dealer, retained the sum of AUD 1.5 million for his own use and benefit, without the consent of the Governor of the Reserve Bank of Fiji.
- Between 2000 and 2010, Mr Chaudhry lent around AUD 1.5 million to a number of Financial Institutions in Australia and New Zealand, who are not authorised dealers, without the permission of the Governor of the Reserve Bank of Fiji.
- Between 2000 and 2010, Mr Chaudhry caused the delay of payment of AUD 1.5 million by authorising the continual re-investment of the said sum, together with interest acquired, back into the said Financial Institutions, without the permission of the Governor of the Reserve Bank of Fiji.
- Between 2000 and 2004, Mr Chaudhry disposed of money that was proceeds of crime, namely the sum of AUD 1.5 million Australian dollars held in various Financial Institutions in Australia and New Zealand, that he knew were derived directly from some form of unlawful activity.
- In September 2002, Mr Chaudhry disposed of money that was proceeds of crime, a sum of AUD 469,000 held in the Commonwealth Bank of Australia into the Perpetual Investment Management Limited Perpetual Monthly Income Fund.
- In September 2002, Chaudhry disposed of money that was proceeds of crime, namely a sum of AUD 378,979.18 held in the Commonwealth Managed Investment Fund Balanced Fund into the Commonwealth Bank of Australia.
- In November 2002, Chaudhry engaged in a transaction involving money that was proceeds of crime, namely by making a gift of a sum of AUD 50,000 held in the Commonwealth Bank of Australia to his daughter who was a resident in Australia at the material time.

The money laundering charges were dropped in the High Court due to a lack of jurisdiction.

The case proceeded only on first three counts, namely the foreign exchange charges.

In April 2014, Chaudhry was found guilty and convicted of foreign currency offences.

3.1.3 Legal and institutional responses

Fiji has incorporated many of the international laws and policies mentioned above into domestic legislation on AML and anti-corruption. Fiji acceded to the United Nations Convention against Corruption in 2008. The notable national laws for preventing and combating corruption and money laundering include: Prevention of Bribery Act 2007, Fiji Independent Commission against Corruption Act 2007, Financial Transactions Reporting Act 2004 (FTR Act) and its Amendments, Financial Transactions Reporting Regulations 2007 (FTR Regulations) and its 2017 Amendment, Proceeds of Crime Act 1997 (POCA) and its Amendments, and Mutual Assistance in Criminal Matters Act 1997 and its Amendments.

The principal anti-money-laundering legislation is the Financial Transactions Reporting Act 2004, as complemented by its implementing regulations and relevant administrative instruments. The Act creates obligations in terms of suspicious transactions reporting and record-keeping for FIs and DNFBPs. Customer due diligence and beneficial owner identification is also required.

National agencies involved in AML and the fight against corruption include the Fiji Independent Commission against Corruption, the Office of the Auditor General, the Fiji Financial Intelligence Unit, the Office of the Attorney General, the Office of the Director of Public Prosecutions (ODPP), the Fiji Police Force, the Fijian Elections Office, and the Fiji Revenue and Customs Service. Fiji has established a National Anti-Money Laundering Council.

Established under s 3 of the Prevention of Bribery Promulgation 2007, the Fiji Independent Commission against Corruption (FICAC) is the primary institution responsible for investigating and prosecuting corruption cases. However, FICAC does not have the necessary mandate to pursue and prosecute money laundering derived from corruption. FICAC also fails to refer money laundering offences to the Fiji Police Force as the authority responsible for investigating money

laundering offences. FICAC does not focus on targeting the proceeds of crime.⁴⁵

The National Anti-Money Laundering Council (NAMLC), established under the Financial Transactions Reporting Act 2004, has played a significant role in Fiji's efforts to reform and formulate the Crimes Decree, anti-corruption laws and offences relating to unexplained wealth. The institutional framework aims to promote collaboration between relevant agencies. However, there is limited coordination and cooperation in pursuing money laundering investigations and prosecutions related to corruption offences.⁴⁶ In particular, there is a lack of referrals from both FICAC and the Fiji Revenue and Customs Service to the Fiji Police Force. The Fiji Revenue and Customs Service does not have sufficient investigative skills to pursue criminality associated with tax crimes. The Fiji Police Force have the investigation skills, but often lack the financial and auditing skills to efficiently identify ML associated with tax offences.

Fiji law enforcement authorities cooperate regionally and internationally in combating corruption and ML through various mechanisms and networks, including the Asian Development Bank and Organization for Economic Cooperation and Development Anti-Corruption (ADB/OECD) Initiative for Asia and the Pacific, the Asia/Pacific Group on Money-Laundering, the International Criminal Police Organization, and the Egmont Group of Financial Intelligence Units, the Pacific Islands Forum Secretariat, the Pacific Islands Law Officers' Network, the Association of Pacific Island Financial Intelligence Units, the International Association of Prosecutors, the Pacific Prosecutors' Association and the Pacific Association of Supreme Audit Institutions.

Section 31 of the Mutual Assistance Act provides the legal basis for international cooperation in the identification, freezing, seizure or confiscation of proceeds of crime or instrumentalities of foreign offences. Fijian authorities, such as the Office of the Director of Public Prosecutions,

45 At 54.

46 At 44.

the Financial Intelligence Unit, the Fiji Police Force, the Transnational Crime Unit, the Fiji Independent Commission against Corruption, the Reserve Bank of Fiji and the Fiji Revenue and Customs Service, can cooperate with foreign counterparts to register and enforce confiscation orders, pecuniary penalty orders and restraining orders as domestic orders. Section 5 of the Mutual Assistance Act stipulates that Fiji can provide assistance to any foreign country, whether or not it has an arrangement or reciprocal agreement on assistance in criminal matters with Fiji. As a member of the Commonwealth, Fiji can also rely on the Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth. In addition, Fiji (in principle) also considers UNCAC as a basis for international cooperation.

3.1.4 Preventive measures

The requirements for CDD and record keeping applicable to FIs and DNFBPs in Fiji are stated in ss 4–12 of the FTR Act and ss 5–23 of the FTR Regulations. Section 4 of the FTR Act requires FIs to identify and verify a customer when entering into a continuing business relationship, take reasonable measures to ascertain the purpose of any transactions and the origin and ultimate destination of the funds involved in the transactions. Section 9 of the FTR Act obliges FIs to maintain accounts in the true name of the account holder, and prohibits them from opening, operating or maintaining anonymous accounts or accounts opened under fictitious, false or incorrect names.

Section 8 of the FTR Act establishes the obligation of maintaining records of all transactions conducted, including any correspondences relating to these transactions. These records must be kept for a minimum period of seven years from the date of any transaction or correspondence (in excess of the five years recommended by FATF).

Section 4(3) of the FTR Act requires the identification of PEPs and FIS must obtain the approval of senior management before establishing a business relationship with such an individual. FIs must take steps to establish source of wealth and conduct regular and enhanced monitoring of the business relationship.

In general, Fiji has sufficient preventive measures based upon a sound legal framework. There are some inadequacies in terms of trusts, identifying the person who has the ultimate controlling ownership interests and CDD related to beneficial ownership of life insurance and insurance investment products. However, although FIs have implemented the preventive measures to comply with their AML obligations, DNFBPs have low levels of awareness of their AML obligations under the FTR Act and Regulations.⁴⁷

3.1.5 Confiscation of corruption proceeds

The Proceeds of Crime Act 1997 (POCA) provides the primary legal basis for identifying, tracing, seizing and confiscating the proceeds of crime. The POCA provisions apply to the proceeds of ‘serious offences’ including ML and corruption offences. The Act allows both conviction-based and civil confiscation (referred to as forfeiture in the Act) of property of corresponding value. Furthermore, a provision for forfeiture of unexplained wealth was added to the POCA in 2012. In terms of corruption offences, s 14(c) of the Prevention of Bribery Promulgation 2007 also allows for the restraining of assets of a person subject to an investigation or a third party holding it on their behalf. Thus, Fiji has a comprehensive forfeiture mechanism in order to target property derived from corruption and money laundering. Nevertheless, the FICAC and the ODPP lack a focus and interest in targeting criminal proceeds, and the success of confiscation orders has been limited.⁴⁸

⁴⁷ At 69.

⁴⁸ At 58.

3.1.6 Financial intelligence units (FIUs) and suspicious transaction reports

Fiji's FIU was established in 2006 under s 22 of the FTR Act 2004. The FIU operates within the Reserve Bank of Fiji (RBF) and is organised as a separate functional group. As stated in s 25 of the FTR Act, the FIU's functions, duties and powers includes receipt of STRs and information provided by agencies of another country, law enforcement agencies, other government institutions and any other information voluntarily provided to the FIU relevant to serious offences, including ML and corruption offences. Section 13 of the FTR Act requires

FIUs to report cash transactions of FJD 10,000 and above and all international electronic fund transfer transactions to the FIU. Section 32 of the same Act authorises the FIU to receive border currency reports.

The FIU is the leading and central coordinating agency responsible for the detection and prevention of ML in Fiji. It has provided quality financial intelligence to various law enforcement agencies including FICAC. However, this intelligence has not been effectively used by these agencies in ML investigations or to recover the proceeds of crime.⁴⁹

3.2 PAPUA NEW GUINEA

3.2.1 Context

PNG consists of the eastern half of the island of New Guinea, the islands of New Britain, New Ireland, the Autonomous Region of Bougainville and around 600 smaller islands and atolls. The country covers a total land area of 452,860 square kilometres and has a population of approximately 9 million.⁵⁰ The majority of population are Melanesian, with a small number of Micronesians and Polynesians.

PNG is one of the most culturally diverse countries in the world. There are more than 860 distinct indigenous languages and many different traditional societies. The official languages are English, Tok Pisin (Pidgin), and Hiri Motu. Some 87 per cent of the population have traditional village-based lives, dependent on farming while the remainder live in the main cities of Port Moresby (the capital), Lae, Madang, Wewak, Goroka, Mt Hagen and Rabaul.⁵¹

Papua New Guinea gained independence from Australia in 1975 and has the largest economy

in the Pacific Islands with significant reserves of hydrocarbons, gold, copper, nickel and timber. The country's economy is dominated by the agricultural, forestry, and fishing sectors which employ most of PNG's labour force. The mineral and energy extraction industries account for most export earnings and GDP. Despite its potential wealth, Papua New Guinea suffers poor and unreliable transportation infrastructure, lack of fiscal capacity, mismanagement of state resources and corruption.⁵² Most of the wealth from the extractive industries is transferred offshore with limited benefit to the PNG economy.⁵³ PNG is not considered a major regional financial centre. The financial sector is small and provides limited reach to the large proportion of the population in rural areas. The economy is primarily cash based.

3.2.2 Corruption and Money Laundering

Corruption is pervasive, deep-rooted and entrenched in every aspect of politics and business in the country. The 2020 Corruption

49 At 42.

50 The World Bank "Population, total – Papua New Guinea" (2020) <<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PG>>.

51 The World Bank "The World Bank In Papua New Guinea" <<https://www.worldbank.org/en/country/png/overview#1>>.

52 UNDP "Human Development Report – Papua New Guinea" (2020) <<http://hdr.undp.org/en/countries/profiles/PNG>>.

53 BPNG *Money Laundering and Financing of Terrorism – National Risk Assessment* (2017) at 20.

Perception Index (CPI) ranked PNG at 140 out of 180 surveyed countries, with a score of 27/100.⁵⁴ The numerous reasons for the widespread corruption are embedded in the country's history, political context, social norms, administrative traditions, geographic and economic situation.⁵⁵ These include weak public institutions and governance; a lack of transparency; politicisation of the bureaucracy and the social pressure of traditional clan obligations.⁵⁶ A particular characteristic of the traditional culture of PNG, that incentivises nepotistic and corrupt practices, is the Wantok system. It is a system of individual relationships and/or obligations connected by common geographic origin, kinship, or language. Many politicians tend to infuse the rules governing public office and resources with this traditional cultural practice. Corruption is of particular concern in the logging sector and in government procurement.

Corruption is one of the main sources of illegal proceeds in PNG, especially related to misappropriation of public funds, the extraction industries, and licensing processes.⁵⁷ There is widespread corruption at senior levels of the bureaucracy. Bribery of officials is common.⁵⁸ Of most concern is high-value bribery in respect of political favours, misuse of government assets and positions. The risk of domestic corruption has also been fuelled by foreign investment in the mining and petroleum sectors, where corruption may occur to influence decisions in licensing processes.

The risk of ML associated with corruption is very high in PNG.⁵⁹ The proceeds of corruption that have been laundered in and through PNG are likely to be very substantial. The proceeds generated from misappropriation of government funds are often deposited in banks, used to purchase real estate or high-value vehicles, distributed in cash, or moved offshore.⁶⁰ The funds from high-level corruption are likely transferred to offshore countries such as Singapore, Malaysia, Australia and the Philippines.⁶¹ Australia appears to be a favoured overseas destination for the tainted funds.⁶² In fact, Papua New Guineans has been reported as the largest investors in far north Queensland. It was believed that six politicians have invested in multimillion-dollar properties in Cairns.⁶³ The Australian Federal Police estimates USD 200 million of PNG illicit proceeds is laundered in Australia every year.⁶⁴ It has proved difficult to recover stolen government funds deposited in Australian bank accounts or invested in Australian real estate.

Although PNG faces high risks of ML in relation to the proceeds generated from domestic corruption, there is no clear political commitment to 'follow the money' to tackle corruption through AML measures. In early 2021, a PNG local bank, the Bank of South Pacific (BSP), was found non-compliant with some AML regulations. It failed to identify legitimate reasons for transferring significant funds to a customer who was described as a 'politically exposed person' (PEP).⁶⁵ PNG's limited capacity, lack of knowledge and

54 Transparency International "Corruption Perception Index" (2020) <<https://www.transparency.org/en/countries/papua-new-guinea>>.

55 U4, above n 23, at 6–7.

56 United States Department of State *Country Reports on Human Rights Practices: Papua New Guinea* (2020).

57 BPNG, above n 533.

58 At 17.

59 At 81.

60 United States Department of State *International Narcotics Control Strategy Report (INCSR) Vol II: Money Laundering and Financial Crimes Country Database* (2016) <<https://bm.usconsulate.gov/wp-content/uploads/sites/121/2016/11/INCSR.pdf>>.

61 BPNG, above n 533, at 81.

62 Liam Fox "Australia used to launder PNG's dirty money" *ABC News* (Australia, 10 October 2012).

63 Sam Coim "Turning the Tide: Corruption and Money Laundering in PNG" (2013) 1(2) *Griffith Journal of Law & Human Dignity* 240.

64 United States, above n 60, at 58.

65 Natalie Whiting "ASX listed company found to have breached PNG's anti-money laundering laws, regulator wants executives removed" *ABC News* (Australia, 13 July 2021) <<https://www.abc.net.au/radio-australia/programs/pacificbeat/bsp-found-to-have-breached-anti-money-laundering-laws/13442840>>.

skills to address ML in the financial sector creates several vulnerabilities to money laundering, especially transnational money laundering.⁶⁶ However, it is far less likely that offshore criminal proceeds would be laundered in or through PNG due to the absence of developed banking sector and vehicles for ML, such as offshore financial centres.⁶⁷

CASE EXAMPLE

Police v Hetinu [2021] PGDC 60; DC6016 (21 April 2021)

Corruption – Conspiracy – Dealing with Property Reasonably Suspected to be Criminal Property

In June 2017, Terence Hetinu, while employed by the Electoral Commission as the Election Manager for the National Capital District (NCD), was reported to the Police for moving around with cash and bribing voting officials to support a certain candidate. His vehicle was searched, and cash monies of PGK 184,300 and a Memorandum of Agreement (MOA) between a certain candidate and Hetinu was confiscated. The MOA stated, among other things, that the defendant would be rewarded with contracts with NCD if he performed his part of the deal and if the candidate won the Port Moresby Regional Seat, North East electorate in the 2017 elections.

His actions amounted to offences of Official Corruption, Conspiracy to Commit a crime, and Crime of Dealing with Property Reasonably Suspected to be Criminal Property.

3.2.3 Legal and institutional responses

PNG's primary AML law is the Anti-Money Laundering and Counter Terrorist Financing Act 2015 (AML Act). It operates in line with the Criminal Code 1974 as amended by the Criminal Code (Money Laundering and Terrorist Financing) (Amendment) 2015, the Mutual Legal Assistance in Criminal Matters Act 2005 as amended by the Mutual Assistance in Criminal Matters (Amendment) Act 2015, the Proceeds of Crime Act 2005 (POCA) as amended by Proceeds of Crime (Amendment) Act 2015. The AML Framework also includes the United Nations Financial Sanctions Act 2015. PNG ratified the UN Convention against Corruption in 2007.

The main agencies in charge of AML in PNG are the Financial Analysis and Supervision Unit (FASU), the Royal PNG Constabulary (RPNGC), and the Office of Public Prosecutor (OPP). The FASU, which functions as a FIU, is responsible for enforcement of the AML/CTF Act and receives reports submitted by reporting entities under the AML/CTF Act. It works closely with the RPNGC in investigating relevant predicate offences and money laundering.

The National Coordinating Committee (NCC) on AML/CTF, formed in 2012, is the leading body in implementing the government's approach, directing resources, sharing information, and making policy with respect to AML. It consists of the heads of 18 state agencies and three observer agencies. The establishment of the NCC is in line with FATF Recommendation 2 regarding national cooperation and coordination.

In 2014, the FATF identified serious deficiencies in PNG's AML/CFT system, and listed PNG as a High-risk and Non-Cooperative Jurisdiction. Since then, PNG has developed and implemented various initiatives to address these deficiencies, including the enactment of new legislation, development of its AML/CTF expertise and the establishment of the NCC. As a result, the FATF removed PNG from the list of High-risk and Non-Cooperative Jurisdictions in 2016.

⁶⁶ BPNG, above n 533, at 117.

⁶⁷ At 23.

3.2.4 Preventive measures

Part II & III of the AML/CTF Act imposes wide-ranging obligations on FIs and DNFBPs in terms of CDD, reporting, and recording obligations. Sections 17 & 20 of the Act require financial institutions to conduct ongoing due diligence in respect of all business relationships and on all customers, any beneficial owner of the customer, any person or unincorporated entity acting on behalf of the customer and a beneficiary of an insurance party. Financial institutions must conduct ML risk assessments, identify and verify customers, conduct due diligence (and, in certain cases, enhanced due diligence) on all customers, report financial transactions above specified thresholds, suspicious transactions and assets held by persons or entities designated by the United Nations Financial Sanctions Act 2015. Section 52 of the AML/CTF Act imposes similar obligations on DNFBPs. These obligations are in line with FATF Recommendation 10.

Sections 39–41 of the AML Act establish a threshold reporting obligation for financial institutions. Accordingly, financial institutions must report to FASU any transaction of an amount in physical currency, in the form of a bearer negotiable instrument, or an electronic funds transfer equal to or greater than PGK 20,000. This may be carried out as a single transaction or through two or more linked transactions. Financial institutions must make a separate suspicious matter report to FASU if they suspect, on reasonable grounds, that information known to it may be relevant to the detection of money laundering or any other indictable offence (including under the United Nations Financial Sanctions Act 2015). These two reporting obligations are separate. There may be instances where both a threshold report and a suspicious matter report would need to be sent to FASU.

Sections 47–49 of the AML Act oblige FIs to engage in record keeping. FIs must keep records of all transactions conducted. The following records must also be kept: records relating to a risk assessment or audit, records relevant to the establishment of a business relationship with a customer, other files including business correspondence and account files that can establish the nature of activities undertaken during an established business relationship with the customer.

3.2.5 Confiscation of corruption proceeds

The POCA 2005 and its 2015 amendment establishes a legal basis to freeze, restrain and confiscate tainted property. It provides conviction-based confiscation, civil confiscation, and in rem confiscation (i.e., action against an item itself). Subject to an in rem confiscation order, property can be frozen, restrained and forfeited without having to prove ownership. These provisions are consistent with international standards. Section 164 of the POCA 2005 also allows the Commissioner of Police to direct a government department to disclose information that is required in a POCA investigation. This provides the power to obtain evidence held by government departments which might be relevant to establishing the predicate offence or the location of criminal assets, and thus to the prosecution of a money laundering offence and the recovery of criminal proceeds.

3.2.6 Financial intelligence unit (FIU) and suspicious transaction reports

The FASU, established by the AML/CTF Act in 2015, recognises the importance of information exchange with all its domestic key partners and overseas counterparts. The FASU is empowered under the AML/CTF Act to exchange information with other FIUs. It has signed a memorandum of understanding (MOU) with the Australian FIU (AUSTRAC), and is examining the possibility of further MOUs, particularly with regional FIUs.⁶⁸

68 At 28.

The FASU has been a member of the Egmont Group of Financial Intelligence Units since 2019.

The FASU has developed the in-house analytical capacity which allows it to effectively use the threshold and Suspicious Matter Report (SMR) received from reporting entities, and to develop and disseminate financial intelligence.⁶⁹

However, the FASU lacks capacity to analyse submitted reports and produce financial intelligence. There also have been limited intelligence reports and SMRs disseminated by the FASU.⁷⁰

3.3 SOLOMON ISLANDS

3.3.1 Context

Solomon Islands is situated in the Melanesian sub-region, to the east of Papua New Guinea and northeast of Australia. It comprises an archipelago of six major and over 900 smaller islands with a total area of around 28,400 square kilometres and a population of around 721,000.⁷¹ The country has a great diversity of cultures, dialects and customs. It has suffered significant political instability since independence in 1978, including a period of violent ethnic unrest (1995–2003). Solomon Islands has a cash-based economy reliant mostly on agriculture, forestry and fisheries, which, together, account for around 40 per cent of national GDP. Tourism is still limited despite government attempts to enhance growth in this sector. The country has low levels of human development and a small domestic market.⁷²

3.3.2 Corruption and money laundering

Corruption is a major challenge across public institutions in Solomon Islands, allegedly involving politicians and government employees.⁷³ Some senior government officials and politicians have been involved in recent significant corruption cases. In 2017, the permanent secretary in the Ministry of Infrastructure Development was arrested for multiple counts of corruption, including awarding contracts to companies owned by his family.⁷⁴ In 2018, a Solomon Islands lawmaker was charged with corruption for allegedly abusing government funds to buy gifts for his political supporters.⁷⁵ In 2019, two members of parliament were convicted of bribing voters during the 2019 national elections.⁷⁶ Corruption is also a serious problem in the judicial, mining and fishing sectors.⁷⁷

69 At 104.

70 At 14–15.

71 Solomon Islands Government “About Solomon Islands” <<https://solomons.gov.sb/about-solomon-islands/>>.

72 The Commonwealth “Solomon Islands : Economy” <<https://thecommonwealth.org/our-member-countries/solomon-islands/economy>>.

73 U4, above n 23; and APG *Anti-money laundering and counter-terrorist financing measures (Solomon Islands) – Mutual Evaluation Report* (APG, Sydney, 2019) at 14.

74 “Former Solomons govt official convicted of corruption” RNZ (New Zealand, 30 April 2018) <<https://www.rnz.co.nz/international/pacific-news/356302/former-solomons-govt-official-convicted-of-corruption>>.

75 “Solomon Islands MP Dickson Mua arrested for corruption” RNZ (New Zealand, 1 November 2018) <<https://www.rnz.co.nz/international/pacific-news/369905/solomon-islands-mp-dickson-mua-arrested-for-corruption>>.

76 Catherine Graue “Two Solomon Islands MPs lose seats after ‘Devils Night’ bribery verdicts” ABC News (17 February 2020) <<https://www.abc.net.au/radio-australia/programs/pacificbeat/two-sol-islands-mps-lose-seats/11970836>>.

77 U4, above n 23, at 11–12.

Solomon Islands is exposed to a range of money laundering threats and vulnerabilities. The country has a small financial sector providing basic financial services to the population and to businesses operating within the country. Given the limited understanding of the inherent ML risks, the financial sector is particularly vulnerable to ML.⁷⁸ Solomon Islands has limited expertise, staffing capacity, and resources available for AML work. While the banks have been supervised by the Solomon Islands Financial Intelligence Unit (SIFIU) in relation to AML/CFT matters, the small DNFBP sector has not been under active AML supervision.⁷⁹ Nevertheless, given the country's isolated geographic location and limited external trade, Solomon Islands faces a low risk of transnational money laundering.⁸⁰ Foreign destinations for laundered proceeds include China, Australia, Malaysia and Singapore. Money laundering predominantly takes place through self-laundering.⁸¹

Corruption offences are one of the principal predicate offences for the money laundering of illegal proceeds in Solomon Islands.⁸² Corruption has also impacted on the effectiveness of Solomon Islands' responses to ML associated with the proceeds of corruption.⁸³ Solomon Islands has not prioritised ML investigations.⁸⁴ There have been many corruption-related cases, but there are very few ML convictions related to corruption.

CASE EXAMPLE

*Regina v Bobongi [2015] SBHC 86
(10 August 2015)*

Embezzlement – Money Laundering

In 2015, Philip Bobongi was convicted on two counts of Larceny and Embezzlement, and 37 counts of Money Laundering.

Between 19 February 2001 and 30 April 2009, Mr Bobongi stole and embezzled SBD 1.7 million in old notes from the Central Bank of Solomon Islands (CBSI). And between 8 March 2007 and 31 March 2009, Mr Bobongi made deposits of SBD 866,150 (USD 108 269), or parts of these stolen monies, into his and wife's respective accounts at BSP and ANZ Banks.

⁷⁸ APG, above n 733, at 14.

⁷⁹ At 6.

⁸⁰ "2017 National Risk Assessment on Anti-Money Laundering and Terrorism Financing in Solomon Islands" (Central Bank of Solomon Islands, 2017).

⁸¹ APG, above n 733, at 16.

⁸² At 3.

⁸³ At 15.

⁸⁴ At 44.

3.3.3 Legal and institutional responses

The legal framework for AML is found in the Money Laundering and Proceeds of Crime Act 2002 (MLPCA 2002) and the Money Laundering and Proceeds of Crime (Amendment) Act 2010 (MLPCAA 2010). Money laundering is criminalised under s 17 of the MLPCAA 2010. CDD measures are required by the MLPCAA 2010. The Solomon Islands has acceded to UNCAC and endorsed the ADB/OECD Anti-Corruption Initiative in 2012. However, the Solomon Islands is one of the few UN members which has not yet joined the UN Convention against Transnational Organised Crime (UNTOC).

The Royal Solomon Islands Police Force (RSIPF) is responsible for investigating money laundering, corruption, and other predicate offences in Solomon Islands. RSIPF prioritises the investigation of financially motivated criminal offences, including corruption and money laundering.⁸⁵ One of the most significant developments in the Solomon Islands was the establishment of a joint Task Force (Janus) between the Royal Solomon Islands Police and the Ministry of Finance & Treasury in 2016, to identify, apprehend and prosecute individuals involved in fraud and corruption in the public sector.⁸⁶ Task Force Janus primarily deals with corruption related to high level public officials. The Corruption Targeting Team deals with corruption by Members of the Parliament and Members of the Provincial Government and related money laundering. The Task Force achieved its first conviction in 2020.⁸⁷

The Independent Commission against Corruption (ICAC) was established under the Anti-Corruption Act 2018. The country is still in the process of establishing an independent anti-corruption body which will focus on corruption cases

in collaboration with RSIPF and other law enforcement agencies.⁸⁸

3.3.4 Preventive measures

According to the 2019 APG Mutual Evaluation Report, Solomon Islands was rated as non-compliant with FATF Recommendation 10 (Customer Due Diligence).⁸⁹ Sections 12(1) & 12A(1) of the MLPCAA 2010 require FIs and cash dealers to identify and verify the identity of their customers when they open an account or establish a business relationship. Nevertheless, under s 12B of the same Act, this CDD requirement is waived for FIs or cash dealers that are subject to regulation and supervision of a supervisory authority. As a result of this loophole, many FIs and DNFBPs are not implementing CDD measures, and no supervision is being undertaken or guidance provided. There is no provision for FIs to undertake CDD measures when carrying out transactions above an applicable designated threshold. The lack of supervision and focus on DNFBPs thus significantly diminishes the effectiveness of preventive measures in Solomon Islands.

Given the risks of corruption related to domestic PEPs in Solomon Islands, s 12C(d) of the MLPCAA 2010 requires FIs to:⁹⁰

... have risk management systems capable of determining whether a customer is a PEP and when the customer is determined to be a PEP, then FIs are required to take reasonable measures to establish the source of property; obtain approval from senior management before establishing a business relationship and conduct regular and ongoing enhanced monitoring of the business relationship.

85 At 18.

86 At 5.

87 Editor "Joint Investigation Task Force JANUS" *SB Herald* (Solomon Islands, 14 November 2020) <<https://solomonislandsherald.com/joint-investigation-task-force-janus/>>.

88 Solomon Islands Government "SIICAC has a first appointed Director General" (2020) <<https://solomons.gov.sb/siicac-has-a-first-appointed-director-general/>>.

89 APG, above n 733, at 117.

90 APG, above n 73, at 118.

Nevertheless, FIs are not required to identify whether beneficial owners are PEPs. The PEPs requirements have not been strictly followed by FIs.⁹¹ It is unclear if, and if so, how effectively, the list of domestic PEPs is being used. Money changers and money remitters, which are considered high-risk for being used for illicit funds transfer,⁹² have little awareness of the PEPs requirements. Other FIs also seem to have little awareness of the PEPs requirements.⁹³

Section 13(1) of the MLPCAA requires FIs, cash dealers and legal practitioners to keep records of every transaction conducted to allow for the reconstruction of a transaction. However, it does not explicitly state that such records should be available, if necessary, to provide evidence for the prosecution of a criminal activity.

3.3.5 Confiscation of corruption proceeds

The laws on the confiscation of criminal proceeds are largely compliant with FATF Recommendation 4.⁹⁴ The mechanism for identification, freezing and confiscation of criminal assets is provided in s 33(1) of the MLPCA 2002 and s 17 of the MLPCAA 2010. Accordingly, the court may order confiscation of the proceeds of crime in respect of a serious offence for which a person has been convicted upon application by the Office of the Director of Public Prosecutions (ODPP). ML and corruption offences are serious offences applicable to confiscation.

It appears that the ODPP does not have a focus or specific policy on the deprivation of criminal proceeds. The ODPP has achieved limited success when applying for confiscation orders. This is primarily due to insufficient evidence to pursue confiscation of proceeds and property of equivalent value.⁹⁵ Although the ODPP is

encouraged to confiscate criminal proceeds, it normally takes several years to achieve a successful confiscation order. These process delays have prevented confiscation from being pursued. The RSIPF is authorised to seize criminal proceeds during investigations. In practice, however, it usually seizes property to prove evidence of an offence rather than assist confiscation.⁹⁶

3.3.6 Financial intelligence units (FIUs) and suspicious transaction reports

Solomon Islands Financial Intelligence Unit (SIFIU) is attached to the Central Bank of Solomon Islands (CBSI) and is a member of the Egmont Group. It was re-established under s 11D of the MLPCAA 2010 to be responsible for the implementation of the Act. The SIFIU receives, analyses and disseminates STRs related to money laundering and its predicate offences. It also provides guidelines and feedback to FIs (s 11H(1)(a)–(f)). SIFIU provides intelligence and assists RSIPF in the investigations of predicate financial crime cases. Several corruption cases that commenced through the dissemination of SIFIU's financial intelligence led to successful convictions. SIFIU also supports Task Force Janus in investigations and prosecutions of corruption through the provision of financial intelligence.⁹⁷

Solomon Islands had few ML convictions between 2013 and 2021.⁹⁸ The country does not have a clear strategy and sufficient resources to investigate ML. The SIFIU lacks capacity and is understaffed. The RSIPF does not have the expertise and personnel to investigate sophisticated financial crimes.⁹⁹ The RSIPF and ODPP appear to focus on self-laundering cases and lack the understanding of other types of ML. There have been no investigations of stand-alone ML or ML related to foreign predicate offences.

91 At 117.

92 2017 National Risk Assessment on Anti-Money Laundering and Terrorism Financing in Solomon Islands, above n 800.

93 APG, above n 733, at 67.

94 At 104.

95 At 46–47.

96 At 144.

97 At 36.

98 For example, *Regina v Bobongi* [2015] SBHC 86 (10 August 2015).

99 APG, above n 733, at 32–39.

3.4 TONGA

3.4.1 Context

The Kingdom of Tonga ('Tonga') comprises 299 islands with a total land surface area of approximately 750 km² and a population of around 103,000. The majority of Tongans live in the main island of Tongatapu where the capital, Nuku'alofa, is located. There are approximately 100,000 Tongans residing overseas, primarily in Australia, New Zealand and the United States.

Tonga is a member of the British Commonwealth, and the only constitutional monarchy among the PICs. The economy of Tonga is dependent on subsistence agriculture and heavily reliant on donor aid and remittances from Tongans living overseas. The remittance sector is estimated to account for 40 per cent of GDP. Tonga is neither a regional financial centre nor an offshore jurisdiction. Cash is dominant in daily transactions.

3.4.2 Corruption and Money Laundering

Bribery has been reported in Tonga's Police and Customs services, and within the Revenue authority.¹⁰⁰ There were also recent corruption cases involving high-level government officials in Tonga. Nepotism in the public service is a concern due to the strong sense of 'kinship' in Tonga.

Corruption offences are among the main predicate offences for ML. Foreign criminals try to bribe high-level officials for fraud and the issuance of Tongan passports. Proceeds of crime, including corruption proceeds, are generally laundered through purchases of houses or vehicles, payment of private school fees or donations to churches.¹⁰¹ There is very limited evidence of criminal proceeds being sent overseas or of foreign proceeds of crime transferred to Tonga.

CASE EXAMPLE

Tu'ivakano v Police Commissioner [2021] TOSC 170; CV 23 of 2021 (28 October 2021);

R v Tu'ivakano [2020] TOSC 15; CR 7 of 2019 (24 April 2020);

R v Tu'ivakano [2019] TOSC 46; CR 7, 73-74 of 2019 (3 December 2019)

Money Laundering – Bribery

In 2019, Lord Tu'ivakano, the former prime minister of Tonga, faced 14 charges, including two counts of money laundering, two counts of perjury, one count of making a false statement for the purpose of obtaining a passport, six counts of accepting a bribe as a government servant, two counts of possession of a firearm without a licence, and one count of possession of ammunition without a licence. The two co-accused were only faced counts of forgery relating to creating the false passports.

The bribery charges alleged that between 2013–2014, Mr Tu'ivakano, while being the Foreign Affairs Minister, accepted money for the issuance of Tongan passports to various Chinese nationals.

Regarding the money laundering charges, the Crown's case was that the moneys, the subject of the money laundering charges, were from the alleged bribes.

In April 2020, Mr Tu'ivakano was sentenced on the bribery and money laundering charges to two years imprisonment, fully suspended on conditions including 100 hours of community service and fined on each of the firearms and ammunition offences. In 2021 his appeal against conviction failed.

¹⁰⁰ APG *Anti-money laundering and counter-terrorist financing measures (Tonga) – Mutual Evaluation Report* (APG, Sydney, 2021) at 21.

¹⁰¹ At 18–21.

3.4.3 Legal and institutional responses

Tonga's AML legal framework primarily consists of the Money Laundering and Proceeds of Crime Act 2000 (MLPCA); the 2010 MLPCA Amendment Act; the Money Laundering and Proceeds of Crime Regulations 2010 (MLPC Regulations) (as amended); the Counter Terrorism and Transnational Organised Crime Act 2013 (CTTOCA) and the Mutual Assistance in Criminal Matters Act 2000 (as amended).

Monitoring and enforcement of Tonga's AML institutional framework is shared across several agencies. The Transaction Reporting Authority (TRA) functions as the Tonga's FIU under the authority of The National Reserve Bank of Tonga (NRBT). However, in practice this authority is not delegated, with the NRBT acting as the TRA. The TRA works with other government agencies, law enforcement agencies and private sector reporting entities, and receives and analyses STRs. The TRA has applied for membership of the Egmont Group of FIUs.

The Tonga Police is the main law enforcement agency responsible for detecting and investigating ML. The Attorney-General's Office (AGO) represents the Crown in civil litigation and criminal prosecutions, including ML and its predicate offences. The AGO is the central authority for mutual legal assistance and extradition. The Director of Public Prosecutions (DPP) oversees all criminal prosecutions, including ML.

The Anti-Corruption Commissioner, established under the Anti-Corruption Commissioner Act 2016, is authorised to investigate corrupt conduct of current and former public officials. Regionally, Tonga is a member of the Asset Recovery Interagency Network – Asia-Pacific (ARIN-AP), the Pacific Islands Chiefs of Police (PICP), the Pacific Islands Law Officers Network (PILON), and the Pacific Transnational Crime Network (PTCN).

3.4.4 Preventive measures

Part II of the MLPC Regulations and ss 12–14 of the MLPCA contain CDD and reporting obligations for financial institutions and cash dealers. DNFBPs are covered by the MLPCA. The Regulations apply to 'financial institutions', defined in s 2 of the MLPCA as covering a wide range of businesses but excluding cash dealers. Interestingly, the term 'regulated institution' is defined in s 2 of the Regulation to cover financial institutions and cash dealers, but that term is not used in other sections of the Regulations. Enhanced CDD is required for PEPs. However, there is little evidence that small FIs take any measures with respect to PEPs.¹⁰²

One of the main issues affecting the implementation of the preventive measures relates to the enforceability of the MLPC Regulations. The Regulations, issued under s 80 of the MLPC Act, aim to enforce the obligations in relation to risk-based CDD, PEPs, reliance on third parties, wire transfers, record keeping, cross border correspondent banking, STR reporting and internal procedures/controls. Nevertheless, the Regulations are currently unenforceable as there are no sanctions or penalties for non-compliance. In addition, the Regulations do not cover insurance companies and DNFBPs.

In terms of effectiveness, Tonga lacks significant resources to address ML. These deficiencies include limited AML skills, expertise, staffing capacity and available funding for competent authorities. In particular, Tonga does not have sufficient capacity in AML supervision and investigation. DNFBPs, such as lawyers, accountants, and real estate agents, have very little, if any, understanding of their AML obligations.¹⁰³

¹⁰² At 69–70.

¹⁰³ At 69–70.

Part III of the MLPC Regulations specifies record-keeping requirements. However, the 2021 FATF's mutual evaluation reported that the number of STRs submitted was low, and no STRs were filed by DNFBPs. No STR has been a catalyst for a criminal investigation or forfeiture of proceeds of crime action. There has been no outreach by authorities to DNFBPs on AML reporting obligations.

3.4.5 Confiscation of corruption proceeds

Section 28 of the MLPCA enables conviction-based confiscation of proceeds of crime, instruments and benefits of proceeds. Provisional measures, including seizure and detention of cash are provided in ss 49, 51 and 53 of the MLPCA.

The police and the AG have powers to identify and trace proceeds of crime, however, there has been limited use of the conviction-based confiscation regime and the restraint provisions. The successes in forfeiture are all cash seizures rather than restraint orders.¹⁰⁴ Confiscated cash has mainly related to drug offences. Authorities have not yet restrained or confiscated assets pertaining to other predicate offences, such as corruption, due primarily to challenges in conducting financial investigations. Tonga lacks a policy or strategy to pursue the proceeds of crime and confiscate criminal proceeds or property.¹⁰⁵

3.4.6 Financial intelligence unit (FIU) and suspicious transaction reports

The Transaction Reporting Agency (TRA) is established under the MLPCA as the central AML co-ordinator that allows for the exchange of information and intelligence among key stakeholders and the private sector. In fact, the TRA is the National Reserve Bank of Tonga (NRBT), and not a separate unit within the NRBT. Some NRBT staff are delegated to perform FIU functions, such as analysis of STRs and dissemination of financial intelligence to law enforcement agencies. The TRA has MOUs with the Tonga Police, Revenue and Customs, the Ministry of Foreign Affairs and Trade and the AGO to facilitate the exchange of information and intelligence. The TRA is a signatory to the 'Association of Pacific Islands FIUs' for the exchange of information and has submitted an application for membership of the Egmont Group.

There are significant deficiencies in the TRA's operations. In particular, it is unable to access tax information and lacks resources to undertake its core work effectively. There is minimal evidence that Tongan authorities effectively use financial intelligence produced by the TRA to support investigations, develop evidence, and trace criminal proceeds related to ML and associated predicate offences.¹⁰⁶

¹⁰⁴ At 96–98.

¹⁰⁵ At 96–98.

¹⁰⁶ At 41–45.

3.5 COOK ISLANDS

3.5.1 Context

The Cook Islands are located northeast of New Zealand, between American Samoa and French Polynesia. They comprise 15 small islands, covering over 2 million square kilometres of territorial waters. The country has a population of around 17,500. The official languages are Cook Islands Māori and English.

The Cook Islands is a self-governing state in 'free association' with New Zealand. While it administers its own affairs, it is part of the Realm of New Zealand, and the Head of State is the Queen (of New Zealand). Consequently, Cook Islanders are New Zealand citizens, and the Cook Islands is not a member of the UN. The Cook Islands does not have a central bank and although it does have its own currency, this circulates alongside and in parity with the New Zealand dollar (the official currency) within the islands. The Cook Island dollar cannot be utilised or exchanged outside the islands.

The Cook Islands lacks natural resources and manufacturing capability. Its economy is mainly driven by tourism, finance services, pearl, marine and fruit export industries. Foreign aid and remittance from Cook Islanders, predominantly from New Zealand, contributes significantly to its GDP. The offshore financial services sector is also an important part of the economy and financial services are the second biggest contributor to the Cook Islands' economy after tourism.¹⁰⁷ The Cook Islands is not a regional financial centre.

The Cook Islands' offshore financial sector is a recent development, having been established in the early 1980s. The relevant legislation provides for the operation of international companies, trusts and foundations, including offshore banks and insurance companies. The sector provides a wide range of trustee and corporate services to offshore investors. All offshore business operated from the Cook Islands must be channelled through registered trustee companies. The Cook Islands pioneered offshore asset-protection trusts, with laws to protect foreigners' assets from legal claims in their home countries. The Cook Islands has also legislated privacy protections for international companies, international trusts, limited liability companies and international partnerships.¹⁰⁸ The reputation for being a 'secrecy jurisdiction' is an important feature of the Cook Islands' offshore financial sector.

3.5.2 Corruption and Money Laundering

The primary ML threat to the Cook Islands comes from international sources. The main ML threat in the Cook Islands relates to the abuse of its trust and company service providers (TCSP) sector, especially the potential laundering of the proceeds of tax evasion and fraud committed abroad. This potential risk was confirmed by references to the Cook Islands as one of the tax havens in the Pandora Papers.¹⁰⁹ The proceeds of domestic crimes are not significant. Domestic corruption is also a small-scale predicate offence.¹¹⁰

107 FSC "Cook Islands Financial Institutions Regulation" <<https://www.fsc.gov.ck/cookIslandsFscApp/content/about-us>>.

108 See s 227(2), International Companies Act 1981-82; s 74(2), International Partnerships Act 1984; s 72(5), Limited Liability Companies Act 2008; s 23(2), International Trusts Act 1984; and s 54(1) Banking Act 2011.

109 Caleb Fotheringham "Cookers defend offshore services industry" *Cook Islands News* (Cook Islands, 9 October 2021) <<https://www.cookislandsnews.com/national/local/cooks-defend-offshore-services-industry/>>.

110 FSC *Financial Institutions and Designated Non-Financial Businesses and Professions Sectors Review of Risk* (2017) at 20.

CASE EXAMPLE

Elikana v Dukhman [2011] CKHC 88; Misc95.2010 (9 May 2011)

Money Laundering – Proceeds of Crime Act

In 2010, the Cook Islands government received a request from the United States Department of Justice for the Cook Islands government to take action concerning funds remitted to the Cook Islands by Mr Dukhman and held on his behalf in the Cook Islands by Capital Security Bank Limited ('CSB'), Trustee Optimus Holdings Group Trust and Southpac Trust International Inc ('Southpac/Optimus').

The request from the US suggested that Mr Dukhman (and others) had over a number of years committed serious offences in the US including various forms of fraud and money laundering totalling nearly USD 2 million.

The hearing did not concern the alleged acts of fraud and money laundering, but whether Mr Dukhman should be allowed to access the funds held in the Cook Islands to pay his legal costs. The Judge held that it would be appropriate for Mr Dukhman to be allowed to access the funds.

3.5.3 Legal and institutional responses

The primary legislation of the Cook Islands against ML and corruption includes: the Financial Transactions Reporting Act 2017 (FTRA 2017); the Financial Transactions Reporting Regulations 2017 (the Regulations); the Crimes Act 1969 (as amended by the Crimes Amendment Act 2003); the Proceeds of Crime Act 2003 (POCA); the Proceeds of Crime Amendment Bill 2017; the Currency Declaration Act 2016 (CDA); the Financial Intelligence Unit Act 2015 (FIUA) and the Mutual Assistance in Criminal Matters Act 2003 (MACMA).

Subject to the FIUA, FIU receives, requests and analyses financial intelligence, and provides the same to the police for further investigation related to any financial offences. The FIU also supervises reporting institutions in terms of AML compliance. The Cook Islands Police is the lead law enforcement agency for the investigation and prosecution of both ML and corruption. The Crown Law Office (CLO) assists Police in the prosecution of ML and relevant predicate offences and submits applications for confiscation orders under POCA. Two overarching AML and anti-corruption agencies also operate within the Cook Islands. The National Intelligence Taskforce (CINIT) operates as an intelligence sharing body comprising representatives from the Police, FIU, Customs and Immigration. The Cook Islands Anti-Corruption Committee (ACC) provides a more strategic role in co-ordinating anti-corruption strategies and policies. The ACC does not have an investigative function but relies on its members to coordinate their efforts to address corruption cases in the Cook Islands. The Head of the FIU is the Chair of the ACC. The ACC comprises representatives from the FIU, Police, Audit, CLO, the Office of the Ombudsman and the Ministry of Finance and Economic Management (MFEM).

3.5.4 Preventive measures

Part 3 of the FTRA 2017 and part 2 of the Financial Transactions Reporting Regulations 2017 provide for CDD and record-keeping obligations. According to the 2018 FATF's evaluation, there are minor deficiencies in the Cook Islands' implementation of these obligations. In particular, there is no requirement for the identity of a life insurance beneficiary to be verified at the time of pay-out and no requirement for FIs to carry out enhanced CDD measures on a beneficiary who is a legal person or arrangement and presents a higher risk (except when specifically identified as a PEP). Enhanced CDD is required for PEPs in the Cook Islands. However, the definition of PEP only applies to persons who have held the office within the last year, a significantly more restrictive definition than that used in FATF Recommendation 12.

Under s 41 of the FTRA 2017 (as amended by the FTR Amendment Act 2017), reporting institutions (RIs) must retain records of all transactions conducted in the course of business for the specified activities. Specified activities are prescribed in the FTR Regulations to include all financial and DNFBP activities set out in the FATF standards. The provisions are largely compliant with FATF Recommendation 11.¹¹¹

3.5.5 Confiscation of corruption proceeds

The Proceeds of Crime Act 2003 and the Proceeds of Crime Amendment Bill 2017 provide the legal framework for dealing with criminal proceeds, including seizure, restraint, and forfeiture of such proceeds. It establishes a conviction-based confiscation system. The provisions are mostly in line with the FATF's standards.

Nevertheless, confiscation of criminal proceeds and instrumentalities is not being pursued as a policy objective in the Cook Islands. Law enforcement agencies lack specific policies

and procedures for asset tracing, restraint or management in relation to ML or associated predicate offences. Confiscation of falsely/not declared or disclosed cross-border movements of currency is not usually applied as a sanction. These inadequacies in the confiscation practices are not consistent with the assessment of ML risk associated with the offshore financial sector and related to a number of proceeds-generating crimes including bribery.¹¹²

3.5.6 Financial Intelligence Unit (FIU) and suspicious transaction reports

Section 6 of the Financial Intelligence Unit Act 2015 (FIUA 2015) sets out the functions, responsibilities, and powers of the FIU. The Cook Islands' FIU is a hybrid model which has administrative, law enforcement, and supervisory functions. The FIU is housed within the Financial Supervisory Commission (FSC). Section 17 of the FIUA 2015 empowers the FIU to investigate suspected 'financial misconducts'. Defined by s 4 of FIUA, 'financial misconduct' includes ML and corruption offences.

The FIU also receives currency declaration reports under by the Currency Declaration Act 2016 (CDA). The CDA regulates the cross-border movement of currency and enables the seizure, detention or forfeiture of currency that is undeclared, or the proceeds of financial misconducts or unlawful activities. The establishment of the FIU is largely compliant with FATF Recommendation 29. While the FIU is producing quality financial intelligence, there has been limited use of such information to investigate ML and its predicate offences, primarily due to the Cook Islands Police's limited capacity in relation to financial investigations.¹¹³

111 APG *Anti-money laundering and counter-terrorist financing measures (Cook Islands)* – Mutual Evaluation Report (APG, Sydney, 2018) at 135.

112 At 57.

113 At 45.

3.6 SAMOA

3.6.1 Context

Samoa is located about halfway between Hawaii and Australia. It has a land area of 2,820 square kilometres and a population of around 200,000. The official languages are Samoan and English. Samoa gained its independence from New Zealand in 1962 and became the first fully independent Pacific Island country. The Samoan economy is largely cash-based, and has traditionally been focussed upon agriculture and fishing, which produce 90 percent of exports.¹¹⁴ Two-thirds of the workforce is employed in these sectors. Recently the manufacturing and tourism sectors have increasingly contributed to Samoa's GDP. However, the economy continues to rely heavily on emigrants' remittances. Remittances, mostly from Samoans living in American Samoa, Australia, New Zealand and the United States, account for about 26 per cent of GDP.¹¹⁵

Samoa is an offshore financial jurisdiction administered by the Samoa International Finance Authority (SIFA). Except for Trust and Company Service Providers (TCSPs), all entities and arrangements registered under the international financial sector legislation are entitled to tax exemptions. Accordingly, they are not subject to any direct or indirect taxes or duties on their profits or gains, or upon transactions and contracts and are exempt from tax filing obligations in Samoa.¹¹⁶ Samoa's involvement in the offshore industry was highlighted by the Pandora papers.¹¹⁷ Samoa is currently (2021) listed by the EU as a non-cooperative jurisdiction for tax purposes.¹¹⁸

3.6.2 Corruption and Money Laundering

The scale of corruption in Samoa does not appear to be large and would not generate significant amounts of proceeds. Nevertheless, anti-corruption is an important focus of the current government. Corruption in the public sector appears largely limited to misappropriation of funds with some irregularities in cash management and procurement. Allegations of abuse of power are normally in the context of undue influence on government decisions, rather than for personal gain.¹¹⁹

The main ML risks in Samoa are associated with transnational businesses.¹²⁰ There are some trust and company service providers (TCSPs) in Samoa, which are mainly affiliated TCSPs based in Hong Kong, Singapore and Taiwan. They assist overseas clients, primarily from China, to establish international business companies (IBCs) in Samoa. Despite the inherent risks, there is limited evidence of the proceeds of foreign predicate crimes being laundered in Samoa or through its offshore sector. The scale of proceeds generated from domestic crimes also appears small.¹²¹

114 The Heritage Foundation "Index of Economic Freedom – Samoa" (2021) <heritage.org/index>.

115 APG *Anti-money laundering and counter-terrorist financing measures (Samoa) – Mutual Evaluation Report* (APG, Sydney, 2015) at 28.

116 OECD *Global Forum on Transparency and Exchange of Information for Tax Purposes: Samoa* (Second Round) (2019) at 21.

117 Kate Lyons "Pandora papers: Samoa defends its offshore industry, points to 'key levers' in bigger countries" *The Guardian* (online ed, London, 11 October 2021).

118 EU "Taxation: EU list of non-cooperative jurisdictions" (2021) <<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>>.

119 APG, above n 1155, at 27.

120 At 24–25.

121 At 24–25.

CASE EXAMPLE

Attorney General v Pacific International Development Bank of American Samoa [2000] WSSC 48 (6 October 2000)

In re the application of Private International Development Bank of American Samoa [2000] WSSC 54 (6 October 2000)

Money Laundering – Proceeds of Crime held in PIDB American Samoa Account

This case concerned an ex parte motion by the applicant, the Attorney General, for an order under the provisions of the Money Laundering Act 2000 to freeze funds held in an account of the respondent, the Pacific International Development Bank of American Samoa.

The funds held in the account were proceeds of crime having originated from a fraudulent investment scheme in the United States (US) which was under investigation by the FBI. The basic facts of the scheme were:

- People (mainly from the US) were induced to invest in the fraudulent scheme by being offered assurances that there was no risk to their funds which will be traded offshore and promised a 120 per cent return on their investments at the end of the year.
- The returns promised by the promoters were not realised, and many investors lost the entire amounts of their investments. There was no offshore trading with the investors' funds as promised; instead, the funds were used by the promoters of the scheme for their own benefit.
- Millions of dollars of the funds were also transferred to overseas bank accounts controlled by the promoters in three different countries including the bank account at the ANZ Bank (Samoa) Ltd in Apia.

There was nothing in the material placed before the Court to suggest that ANZ Bank (Samoa) Ltd was aware of or had any knowledge that these funds were the proceeds of an alleged fraudulent investment scheme carried out in the United States.

The United States Government requested the assistance of the Attorney General of Samoa in relation to the funds held in the bank account. On order of the Court, the funds were frozen.

3.6.3 Legal and institutional responses

The AML and anti-corruption legal framework in Samoa comprises provisions from several different statutes. Notable amongst these are: the Crimes Act 2013, the Criminal Procedure Act 2016, the Mutual Assistance in Criminal Matters Act 2007, the Police Powers Act 2007, the Proceeds of Crime Act 2007 (POCA) and the Money-Laundering Prevention Act 2007 (MLP Act 2007), as amended in 2018 (MLP Amendment Act 2018). The primary institutions in the fight against ML and corruption in Samoa include: the Public Service Commission, the Office of the Ombudsman, the Office of the Attorney General, the Samoa Audit Office, the Samoa Police Service, the Samoa Transnational Crime Unit, and the Samoa Financial Intelligence Unit (SFIU). Samoa acceded to the United Nations Convention against Corruption on 18 April 2018.

3.6.4 Preventive measures

Part III of the MLP Act 2007 and the MLP Amendment Act 2018 provide for the detailed requirements of CDD and record keeping. These provisions are largely compliant with FATF Recommendation 10.¹²² Minor deficiencies include the lack of a CDD requirement for the beneficiaries of life insurance policies; or a beneficiary who is a legal person; or a legal arrangement when such beneficiaries present higher risk and no requirement for risk management procedures in relation to the conditions under which a customer may utilise the business relationship prior to verification.

PEPs are defined in s 2 of the MLP Amendment Act 2018 but include only foreign individual PEPs. These requirements include immediate family members and close associates of foreign individual PEPs but exclude domestic individuals and international organisation PEPs.

Sections 18(1) and 18(3) of the MLP Act 2007 require FIs to keep records of business transactions and related correspondences for a minimum of five years from the date of any

transaction or correspondence. FIs are required by s 18(3) of the MLP Act to maintain records of a person's identity, records of all reports made to the SFIU and all enquiries relating to ML made by the SFIU. Under s 18(5) of the MLP Act 2007, records shall be made available upon request to the SFIU for purposes of ensuring compliance with the MLP Act 2007. This record-keeping obligation is compliant with FATF Recommendation 11.

3.6.5 Confiscation of corruption proceeds

Samoa has a reasonable legal framework for the tracing, freezing and conviction-based confiscation of proceeds of crime. Confiscation, referred to as forfeiture, is provided for in Part III of the POCA 2007. Forfeiture orders and pecuniary penalty orders are based on the conviction of a serious offence, a definition which includes ML and corruption offences. Sections 24 and 25 of the POCA 2007 provide for value-based confiscation where the property subject to such a forfeiture order cannot be made available for a number of reasons listed in s 24(2) of the same Act. Subject to s 14 of the POCA 2007, pecuniary penalty orders can be made against a person for benefits derived from the commission of an offence. However, the amounts confiscated are still low. Confiscation orders have been largely focused on drug crimes.¹²³

3.6.6 Financial intelligence unit (FIU) and suspicious transaction reports

The Samoan Financial Intelligence Unit (SFIU) was established under s 6 of the MLP Act 2007 within the Central Bank of Samoa (CBS). The functions and powers of the SFIU are set out in Part II of the MLP Act 2007. In particular, s 7 of the Act authorises the SFIU to receive and analyse reports and other information relating to serious offences and money laundering. The SFIU receives and has access to STRs, border currency reports (BCRs), capital flow reports above WST 30,000, and information on all inward

¹²² APG *3rd Follow-Up Report Mutual Evaluation of Samoa* (APG, Sydney, 2018) at 7.

¹²³ APG, above n 1155, at 54.

and outward remittances. The establishment of Samoa's FIU is largely in line with the FATF's standard. Samoa's FIU became a member of the Egmont Group in July 2011.

However, there have been a relatively low number of STRs and BCRs being submitted by reporting entities.¹²⁴ The lack of resources has also challenged the SFIU in its operational

analysis and limited functionality of the SFIU database. Cooperation and exchange of information between the SFIU and other competent authorities is limited. Samoa's law enforcement agencies have made only limited use of the financial intelligence disseminated by FIU into investigations of ML and its predicate crimes.¹²⁵

3.7 VANUATU

3.7.1 Context

Vanuatu is in the South West of the Pacific region, between Australia and Fiji, with a land area of 12,200 square kilometres and a population of around 300,000.¹²⁶ The population of Vanuatu comprises of 98 per cent ni-Vanuatu, with the remainder made up of Europeans, Asians and other Pacific islanders. The majority of the population live in the four main islands of Espiritu Santo, Malekula, Tanna, and Efate. About 47,000 people live in the capital, Port Vila, on the island of Efate. The current Vanuatu's economy is dominated and driven by tourism.

Europeans began settling the islands in the late 18th century and named them the "New Hebrides". The islands were administered by a French-British naval commission. In 1906, the United Kingdom (UK) and France agreed and established an Anglo-French Condominium on the New Hebrides. From 1906 to 1980, the UK and France ruled Vanuatu as a condominium. Vanuatu gained its independence from the joint French and British administration in 1980.

Between 1970 and 1972, the British colonial authorities passed legislation that turned the New Hebrides (Vanuatu) into a tax haven, also known as Offshore Finance Centre (OFC).¹²⁷

A tax haven is a jurisdiction that levies no, or very low, direct corporate and personal income taxes. It can be defined as a jurisdiction 'that hosts financial activities that are separated from major regulating units (states) by geography and/or by legislation'.¹²⁸ These jurisdictions have legislation providing for the formation of transnational Special Purpose Vehicles (SPVs), such as companies and trusts, used in the management of tax neutral portfolios and overseas assets.

Although the British and French had a condominium in the territory until independence in 1980, the offshore centre was developed entirely within the British legal and administrative sphere.¹²⁹ After obtaining independence, Vanuatu has maintained its status as a tax haven. Vanuatu levies no income, capital gains, wealth, withholding or inheritance taxes for individuals, trusts or companies. Instead, indirect taxes, such as value added taxes, excise and import duties are imposed. As a result, international financial transactions and company incorporations have traditionally played an important role in its economy.

¹²⁴ At 45.

¹²⁵ At 48.

¹²⁶ Government of Vanuatu "About Vanuatu" [gov.vu <https://www.gov.vu/index.php/about/about-vanuatu>](https://www.gov.vu/index.php/about/about-vanuatu).

¹²⁷ Gregory Rawlings *English laws and global money markets: The rise of the Vanuatu tax haven* (Working Paper 61, ANU, Canberra, 2005).

¹²⁸ Mark Hampton *The Offshore Interface: Tax Havens in the Global Economy* (Palgrave Macmillan, Basingstoke, 1996) at 4.

¹²⁹ Anthony Van Fossen "Law and Political Economy in Vanuatu's Tax Haven" (2015) 18 *Comparative Law Journal of the Pacific* 157.

The OECD, the FATF, and other organisations have recently pressured Vanuatu to comply with international laws against tax evasion and money laundering. In 2002, Vanuatu was removed from the OECD's list of uncooperative tax havens.¹³⁰ The country has also committed to the OECD's principles of transparency and exchange of information for tax purposes. However, the country remains (as of 2021) on the EU's list of non-cooperative tax jurisdictions.¹³¹

In the past, revenue from offshore financial services contributed significantly to Vanuatu's economy and enriched a small elite in the country. However, the sector is now in relative decline.¹³² There have also been recent efforts to end Vanuatu's tax haven status. In 2016, the government suggested that income taxation would be necessary to provide sustainable revenues for the country. However, strong opposition to income taxation was expressed by all the parliamentary opposition. In 2017, Vanuatu's Parliament withdrew all five bills (Tax Administration, Value Added Tax, Business Licences, Import Duties, and Stamp Duties) that aimed to tax personal and corporate income. In 2018, the Tax Administration Bill was revived and passed. This took effect in June 2019. Accordingly, every taxpayer is required to have a Tax Identification Number which is the necessary, but not sufficient, condition for income taxation.

3.7.2 Corruption and money laundering

Corruption has been prevalent in Vanuatu. Since its independence in 1980, ongoing political instability, mainly caused by factionalism, makes the government vulnerable to corruption.¹³³ It is likely, therefore, that a relatively large amount of corruption proceeds has been laundered locally.

As a 'tax haven', Vanuatu is vulnerable to the laundering of foreign proceeds of crime. In addition, the controversial 'Golden Passport' scheme offers channels for criminals, including corrupt persons, to launder their criminal proceeds by purchasing the passports.¹³⁴

The scheme makes a significant contribution to the country's small revenue.¹³⁵ The contribution has risen from USD 33.3 million in 2016 to USD 43.9 million in 2017 and USD 91.7 million in 2018 that, respectively, accounted for 13.6 per cent, 14.3 per cent and 27.8 per cent of total government revenues; and 4.2 per cent, 5.0 per cent and 9.9 per cent of Vanuatu's GDP.¹³⁶ In 2020, about USD 106 million was generated from citizenship sales to more than 2,000 people. Several individuals sought by police in a number of jurisdictions have purchased Vanuatu's citizenship, which offers visa-free access to a number of European countries (including the UK).¹³⁷ This scheme also presents opportunities for corrupt politicians to sell the passport for a price. Various cases of fraudulent sale of passports by government and political officials have been reported.¹³⁸

130 OECD "Vanuatu Makes Commitment and is Removed from OECD List of Uncooperative Tax Havens" (2002) <<https://www.oecd.org/ctp/harmful/vanuatu/makescommitmentandisremovedfromoecdlistofunco-operativetaxhavens.htm>>.

131 EU "Common EU list of third country jurisdictions for tax purposes" 2021.

132 Tax Justice Network *Narrative Report on Vanuatu* (2020) at 3–4.

133 Heritage Foundation "2021 Index of Economic Freedom – Vanuatu" (2021) <heritage.org/index>.

134 Euan Ward and Kate Lyons "Citizenship for sale: fugitives, politicians and disgraced businesspeople buying Vanuatu passports" *The Guardian* (online ed, London, 15 July 2021) <<https://www.theguardian.com/world/2021/jul/15/citizenship-for-sale-fugitives-politicians-and-disgraced-businesspeople-buying-vanuatu-passports>>.

135 Glenda Willie "Citizenship sale revenue skyrockets" *Dailypost* (15 August 2020).

136 International Monetary Fund *IMF Country Report No. 19/162 (Vanuatu)* (2019) at 25–26; Vanuatu Ministry of Finance and Economic Management *Half-Year Economic and Fiscal Update* (July 2019) at 14.

137 Ward and Lyons, above n 134.

138 APG *Anti-money laundering and counter-terrorist financing measures (Vanuatu) – Mutual Evaluation Report* (APG, Sydney, 2015) at 31.

CASE EXAMPLES

Public Prosecutor v Namuri [2020] VUSC 3; Criminal Case 3411 of 2019 (29 January 2020)

Corruption – Money Laundering

In 2020, Mr Namuri was convicted of financial deception and money laundering due to benefits he accrued to himself while holding the most senior position within the Public Works Department (PWD) in 2014.

Mr Namuri had arranged for the China Civil Engineering Construction Corporation (CCECC), which was engaged in a road remediation project on Tanna Island, to purchase a vehicle for PWD to use for the project. Mr Namuri obtained exemptions for import duty and VAT on the basis that the vehicle would be used by PWD on official Government business.

However, Mr Namuri used the vehicle for his own benefit. This included using it in 2016 to provide a professional car service and channelling the funds earned through his brother's bank account.

CASE EXAMPLES

Rory v Public Prosecutor [2020] VUCA 41; Criminal Appeal Case 1862 of 2019 (17 July 2020); Public Prosecutor v Rory [2019] VUSC 81; Criminal Case 1922 of 2018 (5 July 2019)

(2020 Sentencing Appeal Relating to Offences that occurred in 2015)

Money Laundering – Corruption

A Principal Aid Negotiator within the Prime Minister's Office, Mr Rory, was convicted of 20 counts of obtaining money by deception and a further 20 counts of money laundering relating to the same funds.

In 2015, Mr Rory assisted in obtaining for the people of Vanuatu certain aid money from the EU for the Vanuatu Government. On 20 occasions from January 2016 to late December 2016, he arranged for portions of the EU aid money to be withdrawn and paid into the bank account of 'Lambong Edition and Translation', an unregistered company which Mr Rory had taken over from his brother.

3.7.3 Legal and institutional responses

The primary AML and anti-corruption laws in Vanuatu include the Anti-Money Laundering and Countering Financing of Terrorism Act (AML/CFT) 2014; Anti-Money Laundering and Countering Financing of Terrorism Act (Amendment) Act 2017; Proceeds of Crime Act 2002; Mutual Assistance in Criminal Matters Act [CAP 285]; Currency Declaration Act 2009 and the Customs Act 2013. Section 73 of the Penal Code of 1981 also criminalises various acts of corruption. The Proceeds of Crime Act of 2002 (amended in 2017) criminalises money laundering and provides measures for asset forfeiture. Vanuatu ratified the UN Convention against Corruption in 2011.

Key institutions involved in the investigation and prosecution of corruption and money laundering are the Vanuatu Police Force, the Office of the Public Prosecutor, the Office of the Ombudsman, the Vanuatu Financial Intelligence Unit (VFIU) and the Public Service Commission. Section 5 of the AML/CTF Act 2014 stipulates the functions and powers of the VFIU as the co-ordinating law enforcement agency to prevent and detect money laundering. The VFIU issues guidelines to reporting entities in relation to CDD and record-keeping obligations. The VFIU has been responsible for reporting relevant ministers and the Council of Ministers (COM) on strategic AML and CFT outcomes and ensuring AML/CTF policies are developed and approved.¹³⁹

3.7.4 Preventive measures

Vanuatu is rated largely compliant with FATF Recommendation 10 regarding CDD obligations.¹⁴⁰ Sections 12–18 of the AML/CTF Act 2014, particularly s 14, require reporting entities must maintain accounts or establish business relationships with the true name of a customer. In addition, s 15 states that a reporting entity must not establish a business relationship with a person using a false, fictitious or misleading name; or open an account with a person using two or more names unless the person has disclosed the other names to the reporting entity. There are minor deficiencies, including the absence of provisions related to Recommendation 10(14) that permit delayed verification of occasional customers only where the ML/TF risks are effectively managed.

Section 19 of the AML/CTF Act 2014 largely specifies the requirements of record keeping outlined in FATF's Recommendation 11.¹⁴¹ Sections 20–32 AML/CTF Act 2014 also provide the requirements regarding reporting of suspicious transactions and suspicious activity or attempted transactions or activity that are consistent with the criteria for FATF Recommendation 20. Nevertheless, there is an absence of explicit obligations on reporting entities to make CDD information swiftly available to the VFIU on request.

The requirement of risk-based systems and enhanced CDD for PEPs is provided in the 2015 Amendment to the AML/CTF Act. This has strengthened Vanuatu's compliance with FATF Recommendation 12. However, reporting entities are not explicitly required to apply PEP requirements to family members or close associates of PEPs.

¹³⁹ At 35.

¹⁴⁰ APG "3rd Follow-Up Report Mutual Evaluation of Vanuatu" (APG, Sydney, 2018) at 12.

¹⁴¹ APG, above n 1388, at 67.

3.7.5 Confiscation of corruption proceeds

The Proceeds of Crime Act 2002 (POCA) and its amendments (in 2005, 2012, 2014 and 2017) provide adequate legal tools to trace, seize and confiscate the proceeds of ‘serious offences’ that meet international standards.¹⁴² Corruption offences are categorised as ‘serious offences’.¹⁴³ However, confiscation under POCA is dependent upon conviction for a ‘serious offence’. Section 28 of POCA allows for the confiscation of property of equivalent value using a pecuniary penalty order which is an order to pay back the benefits derived from the commission of the offence. The Office of the Public Prosecutor (OPP) takes the lead and works closely with other law enforcement agencies in implementing POCA. Prosecutors may appear in civil courts, rather than the state counsels from the Office of the Attorney General, making civil applications for restraining and forfeiture of proceeds and instruments of crime.

3.7.6 Financial intelligence unit (FIU) and suspicious transaction reports

Vanuatu has adequate legal provisions governing the power, functions and operations of its FIU. The Vanuatu FIU (VFIU) is established within the State Law Office as the main AML agency responsible for the receipt, analysis, and dissemination of suspicious transactions reports (STRs). Subject to ss 20–30, reporting entities are required to file reports on suspicious transactions, large cash transactions, international currency transfers, cash courier reports and border currency declarations to the VFIU. It plays a central role in gathering financial intelligence and supervising the AML & CFT regime in Vanuatu. Tasked by s 4 of the AML/CFT Act 2014, the VFIU provides analytical support to financial investigations of domestic law enforcement agencies, and financial intelligence to overseas counterparts. The VFIU has been a member of the Egmont Group of FIUs since 2002. The VFIU also regulates compliance, and conduct compliance examinations of all financial institutions in Vanuatu as required by the AML/CTF Act 2014.

¹⁴² APG, above n 140, at 5.

¹⁴³ See s 7 of Proceeds of Crime (Amendment) Act 2017 and s 73 of Penal Code.



CONCLUSION

04 CONCLUSION AND RECOMMENDATIONS

Corruption is significant and corruption-related money laundering is evident in many PICs. Although the exact scale of corruption proceeds and money laundering in the region remains unclear, and varies dramatically between countries, there seems little doubt that in a few examples the levels are such that they pose a significant risk to the countries concerned. The proceeds generated from corruption in the countries with undeveloped financial sectors, e.g., PNG, tend to be laundered overseas, particularly in Australia. The countries with a history of operating as OFCs, e.g., Vanuatu and Cook Islands, and the ones with a developed financial sector, e.g., Fiji, are attractive to the proceeds of foreign corruption. Furthermore, corruption and money laundering in several countries is facilitated by the cash-based nature of the economy.

However, most PICs currently do have a sound AML legal framework which can be utilised in combating corruption and confiscating its proceeds. This begs the question as to why corruption and money-laundering remains an issue. This seems primarily because of the countries' limited willingness and/or ability to combat corruption through the various AML tools that are available domestically. The majority of the countries studied do not pay sufficient attention to the link between corruption and money laundering and lack specific policies to employ AML measures as anti-corruption tools. In particular, financial intelligence agencies, investigators and prosecutors, in many PICs are not equipped with sufficient resources and expertise to address corruption-related money laundering. In addition, there is limited

cooperation among national agencies in dealing with the corruption- money laundering nexus.

The following recommendations are provided as suggestions to assist PICs to implement AML frameworks in combating corruption, particularly in relation to PEPs.

Recommendation 1

Pacific Island Countries (PICs) should set out the Customer Due Diligence obligations that they require of Financial Institutions and Designated Non-Financial Business and Professions more clearly; and make sure that these clear obligations align with the standards set by the FATF.

This recommendation particularly applies to the due diligence requirements relating to prominent people who are more susceptible to being involved in bribery or corruption (Politically Exposed Persons or PEPs). PICs should also require that Financial Institutions and Designated Non-Financial Business and Professions develop mechanisms to ensure the effective implementation of these compliance measures.

In addition, PICs should increase access to beneficial ownership information. Without this, Customer Due Diligence measures will have a limited impact on reducing corruption relating to PEPs. In order to facilitate Customer Due Diligence measures, most PICs should increase financial inclusion, with greater use of digital identities and expanded digitalisation of the economy.

Corrupt officials and individuals normally need access to the financial system to transfer, keep and spend their proceeds of corruption. To do so they often make use of FIs and DNFBPs as the intermediaries for money laundering operations. Thus, CDD preventive measures tend to deter corruption proceeds from being laundered and protect the integrity of FIs and DNFBPs. These measures would help to track business relationships, transactions, and the true ownership of assets. AML agencies, including regulatory authorities and FIUs, should maximise the effectiveness of AML measures in the fight against corruption. Anti-corruption authorities should be aware of these preventive measures and their application, such as the types of records maintained by FIs and DNFBPs and their powers, as well as processes to obtain such records. These records can assist authorities in tracing and identifying the proceeds of corruption and act as a deterrent to those wishing to profit from corrupt practices.

Recommendation 2

The legal frameworks around the confiscation of criminal proceeds should be strengthened across most jurisdictions. The attack on corruption proceeds will deprive corrupt individuals of their illegal assets, thus reducing the incentive for engaging in corrupt activities. In addition, confiscation is an effective means for recovering property, and provides a wide range of benefits for investigating bodies. For instance, tracing the money trail enables investigators to gather further information and evidence about the identification, financial background or property of suspects and criminals.

Most PICs have only conviction-based confiscation provisions. PICs should expand these tools to ensure law enforcement agencies have broader legal avenues for freezing, seizing, and confiscating proceeds of corruption using non-conviction-based confiscation mechanisms. In addition, relevant AML and anti-corruption agencies should pay more attention to targeting the proceeds of corruption.

Recommendation 3

FIUs in most PICs should be adequately staffed, resourced and trained to enable them to analyse corruption-related financial information and produce quality financial intelligence. FIU staff analysing STRs should be trained to understand the indicators of corruption and determine when an STR may be relevant to corruption investigations.

Each country should establish an effective relationship among its FIU and anti-corruption agencies in relation to information sharing, investigations and prosecution of corruption and money laundering. Anti-corruption authorities should work with their FIUs to maximise the use of reports collected, such as cash transaction reports, wire transfers or cross-border movements of currency or bearer negotiable instruments, in corruption investigations.

Recommendation 4

Responses to corruption and money laundering are intrinsically linked and mutually reinforced. Thus, the commitment and ongoing collaboration of all stakeholders, including legislatures, supervisory bodies, law enforcement and the private sector, is essential. Most PICs have established specialised institutions, either as separate agencies or within existing law enforcement agencies, to investigate either corruption or money laundering. In addition, PICs should consider setting up joint investigation mechanisms into corruption and money laundering (e.g., a multi-agency task force). A joint investigation team in corruption cases should, for example, include investigators from the FIU. Joint investigations and multi-agency taskforces could resolve obstacles in sharing information between AML and anti-corruption agencies due to institutional or legislative restrictions.

The AML regulatory authorities of PICs should also understand the risks of corruption-related money laundering in their jurisdictions. As AML supervisory authorities play a crucial role in the effective implementation of preventive anti-corruption measures, they should also ensure that sufficient attention is given to assessing compliance, particularly with PEP requirements.

Recommendation 5

PICs, with the assistance from Australia, New Zealand, and other countries and organisations, should build adequate capacity for cross-border cooperation in anti-corruption and AML. Most PICs have a sound legal basis for transnational cooperation. Nevertheless actual co-operation varies throughout the Pacific Islands. Many countries are unable to engage effectively in it, primarily due to insufficient resources. Hence, the need to focus on increasing technical capacity, providing training, and encouraging intelligence collection and dissemination among the relevant regional agencies in the fight against corruption and money laundering.

There should be regional initiatives and procedures to promote and facilitate international cooperation in prosecuting corruption-related money laundering and recovering the proceeds of corruption located abroad. Mutual legal assistance and extradition mechanisms should be strengthened.

PICs should also join and utilise available asset recovery inter-agency networks, such as the Asset Recovery Interagency Network – Asia Pacific (ARIN-AP) and the APG, for asset tracing and recovery.

In addition, PICs should consider becoming members of UNODC's Global Operational Network of Anti-Corruption Law Enforcement Authorities (The GlobE Network). This network offers a practical means of co-operation and resource sharing between relevant law enforcement agencies. At the time of writing, Fiji is the only PIC member of GlobE.¹⁴⁴

¹⁴⁴ <https://globenetwork.unodc.org/>.

05

BIBLIOGRAPHY

"2017 National Risk Assessment on Anti-Money Laundering and Terrorism Financing in Solomon Islands".

Asia/Pacific Group on Money Laundering (APG) *APG Yearly Typologies Report: Methods and Trends of Money Laundering and Terrorism Financing* (APG, Sydney, 2019).

Asia/Pacific Group on Money Laundering (APG) *APG Typologies Report on Fraud & Money Laundering in the Pacific* (APG, Sydney, 2016).

"About Vanuatu" <<https://www.gov.vu/index.php/about/about-vanuatu>>.

Alldrige, Peter *Money Laundering Law Forfeiture, Confiscation, Civil Recovery, Criminal Laundering, and Taxation of the Proceeds of Crime* (Hart Publishing, Oxford, 2003).

APG *3rd Follow-Up Report Mutual Evaluation of Samoa* (APG, Sydney, 2018).

APG *3rd Follow-Up Report Mutual Evaluation of Vanuatu* (APG, Sydney, 2018).

APG *Anti-money laundering and counter-terrorist financing measures (Cook Islands) – Mutual Evaluation Report* (APG, Sydney, 2018).

APG *Anti-money laundering and counter-terrorist financing measures (Fiji) – Mutual Evaluation Report* (APG, Sydney, 2016).

APG *Anti-money laundering and counter-terrorist financing measures (Solomon Islands) – Mutual Evaluation Report* (APG, Sydney, 2019).

APG *Anti-money laundering and counter-terrorist financing measures (Tonga) – Mutual Evaluation Report* (APG, Sydney, 2021).

APG *Anti-money laundering and counter-terrorist financing measures (Samoa) – Mutual Evaluation Report* (APG, Sydney, 2015).

APG *Anti-money laundering and counter-terrorist financing measures (Vanuatu) – Mutual Evaluation Report* (APG, Sydney, 2015).

APG *PILON/APG Typologies Report – Recovering the Proceeds of Corruption in the Pacific* (APG, Sydney, 2016).

BPNG "Money Laundering and Financing of Terrorism - National Risk Assessment" 2017.

Chakin, David and JC Sharman *Corruption and Money Laundering: A Symbiotic Relationship* (Palgrave Macmillan, 2009).

Coim, Sam "Turning the Tide: Corruption and Money Laundering in PNG" (2013) 1(2) Griffith Journal of Law & Human Dignity 240.

Commonwealth, The "Solomon Islands: Economy" <<https://thecommonwealth.org/our-member-countries/solomon-islands/economy>>.

Egmont Group "Member by Regions" <<https://egmontgroup.org/>>.

EU "Common EU list of third country jurisdictions for tax purposes" 2021.

EU "Taxation: EU list of non-cooperative jurisdictions" (2021) <<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>>.

EU "Timeline – EU list of non-cooperative jurisdictions" (2021) <<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/timeline-eu-list-of-non-cooperative-jurisdictions/>>.

FATF *FATF Guidance: Politically Exposed Persons (Recommendations 12 and 22)* (2013).

FATF *Laundering the Proceeds of Corruption* (FATF/OECD, Paris, 2011).

FATF *The use of the FATF Recommendations to combat corruption* (FATF/OECD, Paris, 2013).

Fiji Bureau of Statistics, <<https://www.statsfiji.gov.fj/statistics/population-censuses-and-surveys.html>>.

FijiFIU *2020 Annual Report* (2020).

Fossen, Anthony Van *Tax Havens and Sovereignty in the Pacific Islands* (University of Queensland Press, St Lucia, 2012)

Fotheringham, Caleb "Cooks defend offshore services industry" Cook Islands News (Cook Islands, 9 October 2021) <<https://www.cookislandsnews.com/national/local/cooks-defend-offshore-services-industry/>>.

Fox, Liam "Australia used to launder PNG's dirty money" ABC News (Australia, 10 October 2012)

FSC "Cook Islands Financial Institutions Regulation" <<https://www.fsc.gov.ck/cookislandsFscApp/content/about-us>>.

FSC *Financial Institutions and Designated Non-Financial Businesses and Professions Sectors Review of Risk* (2017).

Egmont Group "Member by Regions" <<https://egmontgroup.org/>>.

Graue, Catherine "Two Solomon Islands MPs lose seats after 'Devils Night' bribery verdicts" ABC News (17 February 2020) <<https://www.abc.net.au/radio-australia/programs/pacificbeat/two-sol-islands-mps-lose-seats/11970836>>.

Hampton, Mark *The Offshore Interface: Tax Havens in the Global Economy* (Palgrave Macmillan, 1996).

Heritage Foundation "2021 Index of Economic Freedom - Vanuatu" (2021) <heritage.org/index>.

Heritage Foundation "Index of Economic Freedom - Samoa" (2021) <heritage.org/index>.

International Monetary Fund IMF Country Report No. 19/162 (Vanuatu) (2019).

Larmour, Peter "How much corruption is there in the Pacific islands? A review of different approaches to measurement" (2009) 24(1) Pacific Economic Bulletin 144.

Lyons, Kate "Pandora papers: Samoa defends its offshore industry, points to 'key levers' in bigger countries" The Guardian (online ed, London, 11 October 2021).

Mugarura, Norman "The Effect of Corruption Factor in Harnessing Global Anti-Money Laundering Regimes" (2010) 13(3) Journal of Money Laundering Control 272.

OECD *Global Forum on Transparency and Exchange of Information for Tax Purposes: Samoa (Second Round)* (2019).

OECD "Vanuatu Makes Commitment and is Removed from OECD List of Unco-operative Tax Havens" (2002) <<https://www.oecd.org/ctp/harmful/vanuatumakescommitmentandisremovedfromoecdlistofunco-operativetaxhavens.htm>>.

PICP "Pacific Transnational Crime Network" <<https://picp.co.nz/our-work/pacific-transnational-crime-network/>>.

PILON "Corruption Working Group" <<https://pilonsec.org/our-work/working-groups/corruption/>>.

PWC "Corporate - Tax credits and incentives (Fiji)" (2022) <<https://taxsummaries.pwc.com/fiji/corporate/tax-credits-and-incentives>>.

Rawlings, Gregory English laws and global money markets: The rise of the Vanuatu tax haven (Working Paper 61, ANU, Canberra, 2005)

RNZ "Fiji education minister charged with bribery" (New Zealand, 4 July 2017) <<https://www.rnz.co.nz/international/pacific-news/334442/fiji-education-minister-charged-with-bribery>>.

RNZ "Former Solomons govt official convicted of corruption" (New Zealand, 30 April 2018) <<https://www.rnz.co.nz/international/pacific-news/356302/former-solomons-govt-official-convicted-of-corruption>>.

RNZ “Nine MPs in Fiji investigated over allowances” (New Zealand, 17 June 2020) <<https://www.rnz.co.nz/international/pacific-news/419202/nine-mps-in-fiji-investigated-over-allowances>>.

RNZ “Solomon Islands MP Dickson Mua arrested for corruption” (New Zealand, 1 November 2018) <<https://www.rnz.co.nz/international/pacific-news/369905/solomon-islands-mp-dickson-mua-arrested-for-corruption>>.

Sharman, Jason *Tackling Shell Companies: Limiting the Opportunities to Hide Proceeds of Corruption* (U4 Anti-Corruption Resource Centre, Bergen, 2012).

Solomon Islands Government “About Solomon Islands” <<https://solomons.gov.sb/about-solomon-islands/>>.

Solomon Islands Government “SIICAC has a first appointed Director General” (2020) <<https://solomons.gov.sb/siicac-has-a-first-appointed-director-general/>>.

Tax Justice Network *Narrative Report on Vanuatu* (2020).

Transparency International “What is Corruption?” <<https://www.transparency.org/en/what-is-corruption#define>>.

Transparency International, “Corruption Perception Index” (2020) <<https://www.transparency.org/en/countries/papua-new-guinea>>.

Transparency International “Global Corruption Barometer Pacific: A First for People’s Voices on Corruption” (2021) <<https://www.transparency.org/en/news/gcb-pacific-2021-survey-people-voices-corruption-bribery>>.

U4 Pacific Island countries: *Overview of corruption and anti-corruption* (2020).

UNDP “Anti-Corruption commitment by Pacific Leaders welcomed” (2021) <https://www.pacific.undp.org/content/pacific/en/home/presscenter/pressreleases/2021/Anti_Corruption_Committment_by_Pacific_leaders_welcomed.html>.

UNDP “Human Development Report – Papua New Guinea” (2020) <<http://hdr.undp.org/en/countries/profiles/PNG>>.

UNDP Pacific Anti-corruption Factsheet.

United Nations Convention against Corruption.

UNODC *Teieniwa Vision* (2020).

United States Department of State, *Country Reports on Human Rights Practices: Papua New Guinea* (2020).

United States Department of State International Narcotics Control Strategy Report (INCSR) Vol II: Money Laundering and Financial Crimes Country Database (2016) <<https://bm.usconsulate.gov/wp-content/uploads/sites/121/2016/11/INSCR.pdf>>.

Vanuatu Ministry of Finance and Economic Management, *Half-Year Economic and Fiscal Update* (July 2019).

Ward, Euan and Kate Lyons “Citizenship for sale: fugitives, politicians and disgraced businesspeople buying Vanuatu passports” *The Guardian* (online ed, London, 15 July 2021) <<https://www.theguardian.com/world/2021/jul/15/citizenship-for-sale-fugitives-politicians-and-disgraced-businesspeople-buying-vanuatu-passports>>.

Natalie Whiting “ASX listed company found to have breached PNG’s anti-money laundering laws, regulator wants executives removed” *ABC News* (Australia, 13 July 2021) <<https://www.abc.net.au/radio-australia/programs/pacificbeat/bsp-found-to-have-breached-anti-money-laundering-laws/13442840>>

Willie, Glenda “Citizenship sale revenue skyrockets” *Dailypost* (15 August 2020).

World Bank “Population, total – Papua New Guinea” (2020) <<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PG>>.

World Bank “The World Bank In Pacific Islands” <<https://www.worldbank.org/en/country/pacificislands/overview#1>>.

World Bank “The World Bank In Papua New Guinea” <<https://www.worldbank.org/en/country/png/overview#1>>.


Transparency International
New Zealand


PO Box 10123
Waterloo Quay
Wellington 6140
New Zealand

info@tinz.org.nz
www.transparency.org.nz

 **@TINZ.org**

 **@South Pacific Outreach**

 **Transparency International New Zealand**

 **twitt @NZTransparency**