

库克群岛——国际信托

Cook Islands – International Trust and Foundation



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Tamatoa is the CEO of the Cook Islands Financial Services Development Authority. He has also worked in the financial industry, managing complex international corporate and trust transactions for high net worth clients. He holds a Juris Doctor degree in Law, and a law certificate in Pacific and Asian Legal Studies.

库克群岛作为国际上首屈一指的经济辖区，在提供可靠合法的资产保护方面一直享有盛誉。

实际上，库克群岛是首个为现代资产保护信贷立法的国家，这在国际金融领域已成为众所周知的事实。1984年，库克群岛颁布了《国际信贷法案》，从此，库克群岛在为高净值个人和企业提供高度保密的财产保护方面占据了全球金融行业的领先地位。尽管库克群岛一直以国际信托机构为特色，库克群岛还有一些为财富巨头量身定制的金融工具和丰富的专业化经验。

资产保护

2012年基金会——罗马法系中等于普通法辖区中的信托法成为了库克群岛资产保护工具的一部分。库克群岛的信托和基金会都享受法律针对潜在的无法预见的威胁和攻击。这些特点包括：

- a) 不承认、不执行任何外来裁决。为了对受信托保护的资产提起诉讼，诉讼程序必须在库克群岛的法庭中进行，而任何其他国家的司法裁决都将不被执行。在这个太平洋中部看上去很遥远的小群岛国家，诉讼费用对于起诉者而言本身就构成了不小的障碍。此外，有关国际信托的司法程序都为摄影机所记录，但不会被公之于众，从而保护库克群岛的国际信托机密性。
- b) 信托和基金会处置中为期两年的诉讼时效限制表示可以针对欺诈性转让才去法律行动。法庭审理程序需在两年内开始进行。如此短的时限内，往往形成了

The Cook Islands has a reputation as being at the forefront of international jurisdictions that provide trusted and legitimate asset protection. It is well known that the Cook Islands was the first country to create legislation allowing for modern asset protection trusts with the enactment of the International Trusts Act 1984. Although the international trust is the Cook Islands flagship financial structure, it has several financial vehicles and a wealth of experience to assist high net worth clients.

Asset Protection

In 2012 the Foundation – the Roman law equivalent of the trust in common law jurisdictions – was added to the basket of asset protection vehicles available in the Cook Islands. Both the Cook Islands trust and foundation enjoy layers of protection to safeguard assets from potentially vexatious, frivolous, or even unforeseeable attacks. These features include the following:

- a) Non-recognition and non-enforcement of foreign judgments. In order for someone to attack the assets protected in the trust



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起诉者难以逾越的障碍，成为了资产保护的标志，并且为当今许多试图仿效库克群岛的经济辖区所采纳。

c) “超越合理怀疑”的更高要求的举证责任。要证明库克群岛信托的资产转让操作不合法，起诉者必须提供比普通民事事诉讼更高标准的证据。

库克群岛的资产保护功能和保密性规定的终极目标是对非法调查的预防，并保护其信托客户的隐私。

库克群岛的国际信托并不是单纯为资产保护而创建的，它还按照资产信托转让相关的法律法规制定灵活的房地产和税收计划。它也包括隔离计划，在这项计划中，资产为具有专业经验的企业信托人所有，并按照在信托成立之初就制定的方针进行管理。其多样化的信托安排囊括了广阔的投资和管理机遇，而这也是继承计划的关键。

继承计划

在当代瞬息万变的经济领域中，财富规划显得尤为关键。库克群岛国际信托的资产保护功能有效地提升和保障了财富规划。随着新兴国家（如中国）的财富水平不断提升，急需通过新的立法和法律实践以应对公民的新增财产，这就提升了对库克群岛金融机构所提供的财产保护和保留的需求。

or foundation, they would need to commence legal action in the Cook Islands court while court judgments from other countries will not be enforced. The cost itself in mounting a legal attack on this seemingly small remote group of islands in the middle of the Pacific Ocean can itself be a barrier to would-be attackers. Furthermore, court proceedings (other than criminal proceedings) relating to international trusts are heard in camera and are not published in order to preserve the confidential nature of a Cook Islands international trust.

b) A two year statute of limitations from a disposition to the trust or foundation in which someone may commence legal action alleging fraudulent transfer. Court proceedings must be commenced within a two year time period from the transfer; this very short time limit is often the greatest hurdle for would-be attackers to overcome, and has become a hallmark of asset protection now adopted by many jurisdictions seeking to emulate the Cook Islands.

c) A higher “beyond a reasonable doubt” burden of proof. In order to prove that a transfer into a Cook Islands trust was not done legitimately, a would-be attacker would need to

meet a higher standard of proof than that in a typical civil case.

The culmination of asset protection features and provisions of confidentiality seek to prevent fishing expeditions and protect the privacy of those whom have placed their trust in the Cook Islands.

The Cook Islands international trust was not invented solely with asset protection in mind. It allows for flexible estate and tax planning in accordance with laws and regulations of those transferring assets into the trust. It allows for insulation planning where assets are owned by highly professional and seasoned corporate trustees and managed according to guidelines established at the inception of the trust. It allows for a variety of trust arrangements that can include a broad range of investment and management opportunities, which is often a key part of succession planning.

Wealth Planning

The asset protection features of a Cook Islands international trust serve to enhance and safeguard the wealth planning essential in today's changing economy. With the increase in wealth levels among rising countries, such as China, new legislation and



除了国际信托，库克群岛还提供一系列金融产品，以有效利用经济辖区内丰富的国际信托经验，包括：基金、跨国公司、专属保险、有限责任公司和国际合作企业。

在2008年有限责任公司法案的规定下创建的“有限责任公司（LLC）”作为公司创建的工具来说，也正受到日益欢迎，这一工具提供有限的债务责任和合伙制上运营过程中的灵活性。LLC免于库克群岛税收，允许单一或多个来自任何居住地的公司成员无需举行年度会议，并允许企业成为公司成员和经理人，并得以在世界任何一个地方进行合法的商业活动。LLC对架构遗产计划来说很有效，对控股公司来说很理想，对国际公司的形式来说，也是一个很灵活的替代方式。

2013年专属保险法案将专属保险合法化，也是一个很棒的财富管理工具，让风险管理成为可能，并同时降低费用和税负。

库克群岛的顾问将与客户现有顾问紧密协作，从而使制定出的规划既不违背客户本土的监管要求，又能帮助客户扩大、保护和享有传承万代的资产和财富。库克群岛提供了全方位的企业、信托和理财规划服务。库克群岛通过与国际银行

practices to cope with newly acquired wealth of its citizens have increased the demand for wealth preservation offered through Cook Islands entities.

In addition to the international trust and foundation, the Cook Islands offers an array of financial products that capitalize on the jurisdictions extensive experience with wealth protection, including: limited liability companies, captive insurance, international companies, and international partnerships.

The limited liability company (“LLC”), established under the Limited Liability Companies Act 2008, is also gaining popularity as a corporate vehicle that provides limited liability and the operational flexibility of a partnership. Exempt from Cook Islands taxes, the LLC allows single or multiple members from any domicile, has no requirements for annual general meetings, allows corporations to be member and manager, and may conduct any lawful business in any part of the world. The LLC works well in structured estate plans, is ideal for holding companies, and is the flexible alternative to the international company.

Captive insurance, available through the Captive Insurance Act 2013, is also a great wealth planning tool that allows the management of risk, reduced premiums, and lower taxes.

Cook Islands advisors work closely with client’s existing advisors to create structures that meet regulations of the client’s home country while providing clients with the means to grow, protect, and enjoy the results of their successes over many generations. The Cook Islands maintains access to premium banking services through relationships with international banks, and also has a strong Maritime Registry for ships and yachts with representatives in countries all over the world, including China.

Ideal Location

The Cook Islands is located in the centre of Polynesia and is uniquely positioned with a six hour difference with Hong Kong and a six hour difference with New York. Transactions can be commenced, and wire transfers made, in a timely fashion between two continents and the World’s two largest economies. Its strategic location allows the



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的广泛联系，获得了优质的银行服务，并且与全球各国（包括中国在内）的代表维持了稳固的海商注册体系。

理想的地理位置

库克群岛位于波利尼西亚中部，它与纽约和香港各有六小时的时差。因此，我们得以在两个大洲和全球最大的两个经济体内准时开始交易和实现电汇。如此具有战略性的地理位置，使得库克岛提供的服务既能适应普通法的经济辖区，又适应民法的经济辖区，从而成为连接太平洋两岸金融安全的纽带。

库克群岛理想的地理位置，使其成为在美国和亚洲均有业务的客户组建控股公司的首选经济辖区。

根基稳固

库克群岛对金融行业的监管和监督非常严格，在全球排名中都占有极为靠前的位置。它严格遵照国际金融行动专责小组（FATF），国际货币基金组织（IMF）和经济合作与发展组织（OECD）所设定的国际标准进行金融活动。同时，它与新西兰保持着密切的联系，有机会聘任多位卓越的新西兰法官来处理各种法庭诉讼。库克群岛维持着稳定的民主议会制政府，刚刚度过了其 50 周年自治纪念日。获得人民支持的政府和前瞻性行业使库克群岛得以保持其精细的法律体系和卓越水平的金融服务。



Cook Islands to tailor its services to both common law and civil law jurisdictions, acting as a Pacific bridge of financial security.

Given its ideal location the Cook Islands is a prime jurisdiction for incorporating holding companies for clients whose businesses operate from both the USA and Asia.

Well Established

The Cook Islands is ranked very high for its regulation and oversight of the financial industry. It maintains good standing with international standards

of the Financial Action Task Force (FATF), International Monetary Fund (IMF) and Organisation for Economic Co-operation and Development (OECD). Its close ties with New Zealand allow it to access high calibre NZ judges to preside in its court proceedings. It has a stable parliamentary system of democratic government which on August 4th celebrated its 50th year anniversary of self-government. The supportive government and proactive industry allow the Cook Islands to maintain its sophisticated legal and financial services with an outstanding level of service.



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