

# Bosnia & Herzegovina

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RISK & COMPLIANCE REPORT

DATE: February 2017

<b>Executive Summary - Bosnia and Herzegovina</b>	
<b>Sanctions:</b>	EU travel bans and asset freezes against certain individuals
<b>FATF list of AML Deficient Countries</b>	Yes however see below Moneyval Statement
<b>Higher Risk Areas:</b>	Not on EU White list equivalent jurisdictions Offshore Finance Centre
<b>Medium Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> wheat, corn, fruits, vegetables; livestock</p> <p><b>Industries:</b> steel, coal, iron ore, lead, zinc, manganese, bauxite, aluminum, vehicle assembly, textiles, tobacco products, wooden furniture, ammunition, domestic appliances, oil refining</p> <p><b>Exports - commodities:</b> metals, clothing, wood products</p> <p><b>Exports - partners:</b> Slovenia 17.3%, Croatia 16.5%, Italy 13.6%, Germany 12.8%, Austria 12.7% (2012)</p> <p><b>Imports - commodities:</b> machinery and equipment, chemicals, fuels, foodstuffs</p> <p><b>Imports - partners:</b> Croatia 21.1%, Germany 12.5%, Slovenia 12.4%, Italy 9%, Russia 7.3%, Austria 6.1%, Hungary 4.9%, Greece 4.3% (2012)</p>	

**Investment Restrictions:**

Bosnia and Herzegovina (BiH) still struggles to attract foreign investment. Although open to foreign investment, foreign investors continue to face a number of serious obstacles including: multiple complex legal and regulatory frameworks and government structures; non-transparent business procedures; corruption; poor infrastructure; insufficient protection of property rights; and weak judicial structures. In addition, the country's political environment, coupled with the pressures of the global economic downturn, has stalled many key economic reforms.

Bosnia and Herzegovina has made significant efforts to attract foreign investors by passing a liberal foreign investment law and uniform trade, corporate tax and customs policies. The state level Law on Foreign Direct Investment gives foreign investors the same rights as domestic investors, including bidding on privatisation tenders, and provides for non-restrictive investment, except in the media and defence sectors where foreign ownership is limited to 49%.

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## Section 1 - Background

Bosnia and Herzegovina's declaration of sovereignty in October 1991 was followed by a declaration of independence from the former Yugoslavia on 3 March 1992 after a referendum boycotted by ethnic Serbs. The Bosnian Serbs - supported by neighboring Serbia and Montenegro - responded with armed resistance aimed at partitioning the republic along ethnic lines and joining Serb-held areas to form a "Greater Serbia." In March 1994, Bosniaks and Croats reduced the number of warring factions from three to two by signing an agreement creating a joint Bosniak/Croat Federation of Bosnia and Herzegovina. On 21 November 1995, in Dayton, Ohio, the warring parties initialed a peace agreement that brought to a halt three years of interethnic civil strife (the final agreement was signed in Paris on 14 December 1995). The Dayton Peace Accords retained Bosnia and Herzegovina's international boundaries and created a multi-ethnic and democratic government charged with conducting foreign, diplomatic, and fiscal policy. Also recognized was a second tier of government composed of two entities roughly equal in size: the Bosniak/Bosnian Croat Federation of Bosnia and Herzegovina and the Bosnian Serb-led Republika Srpska (RS). The Federation and RS governments are responsible for overseeing most government functions. Additionally, the Dayton Accords established the Office of the High Representative (OHR) to oversee the implementation of the civilian aspects of the agreement. The Peace Implementation Council (PIC) at its conference in Bonn in 1997 also gave the High Representative the authority to impose legislation and remove officials, the so-called "Bonn Powers." An original NATO-led international peacekeeping force (IFOR) of 60,000 troops assembled in 1995 was succeeded over time by a smaller, NATO-led Stabilization Force (SFOR). In 2004, European Union peacekeeping troops (EUFOR) replaced SFOR. Currently EUFOR deploys around 600 troops in theater in a policing capacity.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Bosnia & Herzegovina is on the FATF List of Countries that have been identified as having strategic AML deficiencies however in its 48th plenary meeting held from 14 to 18 September 2015 in Strasbourg, the Council of Europe's anti-money laundering committee ( MONEYVAL) decided to lift its Public Statement on Bosnia and Herzegovina since a number of key amendments to the Criminal Code were adopted in May 2015 to address outstanding shortcomings in relation to the money laundering offence and the confiscation regime. Bosnia and Herzegovina was also removed from MONEYVAL's Compliance Enhancing Procedures.

### Latest FATF Statement - 24 February 2017

In June 2015, Bosnia and Herzegovina made a high-level political commitment to work with the FATF and MONEYVAL to address its strategic AML/CFT deficiencies. Since October 2016, Bosnia and Herzegovina established a legal framework for freezing terrorist assets under UNSCR 1373 and made progress in adopting several insurance laws. Bosnia and Herzegovina should continue to implement its action plan to address its deficiencies, including by: (1) harmonising criminalisation of terrorist financing and money laundering in the remaining criminal code; (2) implementing an adequate supervisory framework; (3) implementing adequate AML/CFT measures for the non-profit sector; (4) establishing and implementing adequate cross-border currency controls; and (5) ensuring adequate procedures for the confiscation of assets. The FATF encourages Bosnia and Herzegovina to continue implementing its action plan to address its AML/CFT deficiencies.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Bosnia & Herzegovina was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Bosnia & Herzegovina was deemed Compliant for 3 and Largely Compliant for 14 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 3 of the 6 Core Recommendations.

### Key Findings from latest follow up Mutual Evaluation Report (2013):

Overall the MONEYVAL Secretariat welcomes the progress that has been achieved by the BiH authorities in respect of the short and medium-term action points. Of the 22 short term measures that were originally established only 7 remain unfulfilled and most of these relate to

training that has been delayed awaiting the adoption of the revised AML Law. However, of the 78 medium term measures which were intended to be in place by 10 October 2012, only 13 have been fully dealt with. It is noted that, due to delays in enacting the revised laws and consequential amendments to laws, guidance, procedures and trainings, 65 of the medium-term action points are still outstanding. This report does not deal with the 10 long term action points, which are due to be met by 10 October 2013.

It was initially accepted by the Committee that resolution of a number of the medium term action points would be delayed due to seeking advice from the Council of Europe. This advice was delivered on 15 February 2013. It is therefore of concern that although draft laws are currently in the parliamentary process any further delays could mean that the relevant laws will not be in force and effect in time for the 4th round evaluation of Bosnia and Herzegovina which is scheduled for 2014.

### **US Department of State Money Laundering assessment (INCSR)**

Bosnia & Herzegovina was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

#### **Perceived Risks:**

Bosnia and Herzegovina (BiH) has primarily a cash-based economy and is not an international or regional financial center. Most money laundering activities in BiH are for the purpose of evading taxes. A lesser amount involves concealing the proceeds of illegal activities, including trafficking in persons, illicit drugs, organized crime, and corruption.

Due to its strategic geographical position and the Visa Liberalization Agreement with the EU, which enables easy transit from eastern countries and the Balkan region to countries of Western Europe, combined with porous borders and weak enforcement capabilities, BiH is a significant market and passageway for smuggled commodities, including cigarettes, firearms, counterfeit goods, lumber, and fuel oils. Bulk cash couriers also are used by organized criminal elements and potential terrorist financiers. There are concerns about the effectiveness of controls of cross-border transportation of currency and bearer negotiable instruments (BNIs) at the maritime border and land crossings. There is no indication BiH law enforcement has taken action to combat the trade-based money laundering (TBML) likely to be occurring in the country. Corruption is endemic, affecting all levels of the economy and society. Integration of laundered proceeds in real estate is a problem.

There are four active free trade zones (FTZs) in BiH, with production based mainly on automobiles, forestry and wood products, and textiles. There have been no reports these areas are used in TBML. The Ministry of Foreign Trade and Economic Relations is responsible for monitoring FTZ activities.

On June 1, 2014, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) issued a Public Statement noting BiH's failure to amend its AML/CFT law to correct important deficiencies.

On September 18, 2015, MONEYVAL lifted its public statement after BiH took steps to address outstanding shortcomings in relation to the money laundering offense and its confiscation regime.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes  
Are legal persons covered: criminally: YES civilly: NO

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES  
KYC covered entities: Banks, currency exchange offices, and entities issuing, managing, and processing transactions with debit and credit cards and other means of payment; financial leasing firms; insurance companies; post offices; investment and mutual pension companies; stock exchanges and stock exchange agencies; casinos and gaming enterprises; dealers in vehicles, art, and precious metals and stones; lawyers, notaries, auditors, and accountants; real estate brokers; company formation agents; trusts and asset managers; pawnshops; travel agents; auctioneers; privatization agencies; and charities

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 167: January - September 2014  
Number of CTRs received and time frame: 283,582: January - September 2014  
STR covered entities: Banks, currency exchange offices, and entities issuing, managing, and conducting transactions with debit and credit cards and other means of payment; financial leasing firms; insurance companies; post offices; investment and mutual pension companies; stock exchanges and stock exchange agencies; casinos and gaming enterprises; dealers in vehicles, art, precious metals and stones; lawyers, notaries, auditors, and accountants; real estate brokers; company formation agents; trusts and asset managers; pawnshops; travel agents; auctioneers; and charities

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 2: January - September 2014  
Convictions: 4: January - September 2014

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES  
With other governments/jurisdictions: YES

BiH is a member of MONEYVAL, a FATF-style regional body.

**ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

BiH's political structure and ethnic politics hinder the effectiveness of its AML/CFT regime. Coordination of law enforcement efforts among the multiple jurisdictional levels in BiH - the



State, the two entities (the Federation of Bosnia and Herzegovina and the Republika Srpska), and Brcko District - is improving, but additional efforts are necessary.

Criminal codes and criminal procedure codes from the State, the two entities, and Brcko District contain similar money laundering offenses. Self-laundering is not criminalized consistently and penalties for money laundering are not yet equivalent. Since the State does not have the resources to investigate all money laundering violations, the respective criminal codes complement one another. The jurisdictions, however, maintain separate bank supervision and enforcement/regulatory bodies. Although BiH has an overarching law providing a framework for implementing UNSCRs, in some cases, it lacks appropriate implementing regulations.

In June 2014, the BiH Parliament adopted changes to the Law on Prevention of Money Laundering and Terrorist Financing. In 2015, the state Parliament passed amendments to the criminal code that will result in punishments for suspects caught breaking the updated law. The criminal codes of the entities and Brcko District each lack specific provisions on some aspect of forfeiture income or other benefits, commingled property, or instrumentalities.

Customs officials have the authority to seize unreported currency in excess of the equivalent of \$3,460 transported across the border. The dispositions of these seized currencies are handled in minor offense proceedings, in accordance with laws established at the entity level within BiH. Nevertheless, due to weak enforcement and corruption, large amounts of currency leave and enter the country undetected.

Bosnia and Herzegovina's law enforcement and customs authorities should take additional steps to control the integrity of the borders and limit smuggling. BiH should completely implement its anti-corruption strategy and combat corruption at all levels of commerce and government. The entities and Brcko District should amend their criminal codes, as appropriate, to explicitly enable the confiscation of income, benefits, and instrumentalities.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Bosnia & Herzegovina does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

### **EU White list of Equivalent Jurisdictions**

Bosnia & Herzegovina is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

## **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

## **Offshore Financial Centre**

Bosnia & Herzegovina is not considered an Offshore Financial Centre

### **US State Dept Narcotics Report 2016:**

Bosnia and Herzegovina is not a major producer or consumer of illegal narcotics, nor is it a producer of precursor chemicals. It is primarily a transit country, positioned between drug production and processing centers in Southwest Asia and markets in Western Europe. Drugs are trafficked through Bosnia and Herzegovina from Albania, Macedonia, Montenegro, and Croatia for storage and eventual distribution throughout Europe. Narcotics control capabilities in Bosnia and Herzegovina are limited; law enforcement and security institutions still need to develop further capacity.

Through September 2015, Bosnian and Herzegovinian police agencies reported seizing: 2.3 kilograms (kg) of heroin; 292 grams of cocaine; 22.4 kg of marijuana; 6.6 kg of other cannabis products; 14.4 kg of amphetamine-type stimulants; 83 tablets of MDMA (ecstasy); and 786 tablets of medical narcotics. Many of these seizures resulted from joint investigations between Bosnian and Herzegovinian law enforcement agencies and the Ministries of the Interior of the Republics of Serbia and Croatia. In November 2015, the UN Office on Drugs and Crime estimated that approximately 170 metric tons per year of Afghan opiates transit the so-called "Balkan route," with perhaps one-third of this volume transiting Bosnia and Herzegovina.

At the state level, the State Information and Protection Agency (SIPA, an FBI-equivalent agency) is responsible for counternarcotics actions. At the entity-level, the Federation Ministry of Interior and Republika Srpska Ministry of Interior oversee entity, cantonal, and municipal law enforcement agencies engaged on drug issues. During the first nine months of 2015, authorities recorded 169 felonies related to the illegal production, sale or distribution of narcotics in the country, an eight percent decrease from the previous year.

Bosnian and Herzegovinian law enforcement agencies face challenges with funding and staffing. However, they continue to work closely with the United States to develop their capacity for strategic planning and resource management in order to overcome some of these challenges.

Bosnia and Herzegovina cooperates with other international partners on drug issues. Individual European governments work with state agencies at various levels on training and institutional support. The state-level Ministry of Security works closely with the European Monitoring Centre for Drugs and Drug Addiction as well as the United Nations Office on Drugs and Crime.

### **US State Dept Trafficking in Persons Report 2014 (introduction):**

Bosnia and Herzegovina is classified a Tier 2 (watch list) country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Bosnia and Herzegovina is a source, destination, and transit country for men, women, children, and persons with developmental disabilities subjected to sex trafficking and forced labor. Bosnian women and girls are subjected to sex trafficking within the country in private residences, motels, and gas stations. Roma boys and girls are subjected to forced labor, including forced begging and forced marriage by local organized criminal groups. In some cases of forced marriage, girls as young as 12-years-old have been subjected to domestic servitude and had their passports withheld. In past years, victims from Serbia, Bulgaria, Germany, Kosovo, and Ukraine were subjected to sex trafficking and forced labor within the country. Bosnian victims are subjected to sex trafficking and forced labor in Serbia, Slovenia, Macedonia, Azerbaijan, Croatia, Spain, Italy, and other countries in Europe.

The Government of Bosnia and Herzegovina does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government allocated funding for anti-trafficking activities in the national budget. Both the Brcko district and the Republika Srpska amended their anti-trafficking laws. Despite these measures, the government did not show progress in convicting trafficking offenders or identifying and protecting trafficking victims; therefore, Bosnia and Herzegovina is placed on Tier 2 Watch List. The government has not yet amended all sub-national laws to criminalize all forms of trafficking consistent with national and international law. It significantly decreased its identification of victims, representing a lack of vigorousness regarding investigations, victim identification, and prosecutions by relevant agencies. Law enforcement and judiciary agencies failed to prioritize forced labor and forced begging as criminal activities.

### US State Dept Terrorism Report 2015

**Overview:** Bosnia and Herzegovina (BiH) remained a cooperative counterterrorism partner and continued to make progress in increasing its counterterrorism capacity in 2015. BiH law enforcement agencies generally keep close track of foreign terrorist fighter suspects in BiH and carried out several operations against them. BiH's ministerial-level Joint Terrorism Task Force, tasked with improving coordination between BiH's many security and police agencies, continued to falter, and there were calls to restore a former operations-level counterterrorism task force that ceased operations three years ago due to funding constraints. Islamist extremist ideology and regional nationalist extremist groups both remained potential sources of violent extremism in BiH.

A significant number of Bosnians have traveled to Syria and Iraq to support ISIL and other terrorist groups. Legal and societal efforts to prevent violent extremism were credited with having reduced the outflow of foreign terrorist fighters compared to previous years. BiH officials and media sources estimate that since 2013, approximately 300 BiH citizens have left for Iraq and Syria to become foreign terrorist fighters. Fifty of these people have returned to the country. BiH sent a representative to the September Leader's Summit on Countering ISIL and Violent Extremism hosted by President Obama in New York on the margins of the 2015 UN General Assembly, during which the Chairman of the BiH Presidency stressed BiH support for full implementation of the UN Global Counter-Terrorism Strategy.

**2015 Terrorist Incidents:** Two terrorism-related incidents occurred in Bosnia and Herzegovina in 2015. In April, a 24-year-old Bosnian man from the Republika Srpska (RS) attacked a police

station in Zvornik, killing one and injuring two police officers. The assailant was killed in a subsequent firefight with the police, who recovered two assault rifles, a pistol, and ammunition. In November, a reportedly radicalized 34-year-old male with a history of drug abuse and petty crime shot and killed two uniformed members of the BiH Armed Forces in a betting parlor in Rajlovac, a suburb of Sarajevo. The attacker then fired his assault rifle at another uniformed soldier in a passing bus while fleeing the scene, injuring several more people. He was cornered by police at home soon after, where he committed suicide by detonating a hand grenade. In both instances, the lone offenders were suspected of having been radicalized in the months prior by individuals with known connections to violent Islamist extremists. Police claimed to have found ISIL propaganda in the home of the deceased Rajlovac assailant, including a crudely fashioned ISIL flag.

**Legislation, Law Enforcement, and Border Security:** In 2015, BiH produced the Balkan region's first comprehensive Strategy for Preventing and Combating Terrorism (2015-2020). The strategy augments its "foreign terrorist fighter" law passed in July 2014 and discourages BiH citizens from participating in foreign paramilitary groups by imposing both imprisonment and monetary fines. It also places special emphasis on addressing challenges posed by "new dynamics of terrorism and terrorism-related phenomena," including foreign terrorist fighters, violent extremism and hate speech, and use of the internet for terrorist purposes.

The majority of BiH's coordination and cooperation problems are caused by overlapping law enforcement jurisdictions. The problems are also the result of personal, political, and institutional rivalries that exist among most police agencies and the BiH Prosecutor's Office and BiH Court. Many of these rivalries are deeply ingrained and difficult to overcome. In February, BiH authorities completed the last of three counterterrorism operations initiated in November 2014, which targeted BiH citizens who traveled to fight in Syria and Iraq, and those who supported or aided them in their efforts. As a result of these operations, 34 BiH citizens have been arrested, of which 18 were prosecuted. On November 5, BiH courts convicted and sentenced Bilal Bosnic to seven years in prison for his role in recruiting and funding foreign terrorist fighters. In addition to Bosnic, four other BiH citizens were tried and convicted in 2015 for their roles in either recruiting or facilitating foreign terrorist fighters.

To track traveler entries into BiH, the BiH Border Police (BP) uses a computerized database and software system to support immigration and passenger information collection. The system links all 55 border crossings and all four airport locations (Banja Luka, Mostar, Sarajevo, and Tuzla) via the State Police Information Network (SPIN), a network developed and donated by the Department of State via the Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP). Both the BP and the Foreigners Affairs Service (FAS) field offices are connected to this system that was first implemented in 2005 and completed in 2012. To address connectivity problems, the Department of State via ICITAP is funding a maintenance program to ensure all field offices are fully operational. SPIN provides the BP and FAS with immediate access to other supporting databases (including INTERPOL) to run appropriate checks and cross-checks. All law enforcement agencies in BiH have the capability to add data into this system.

Separately, ICITAP is working with the FAS to establish a biometrics system that will permit more effective monitoring of individuals entering and leaving BiH. The BiH biometrics program is fully compatible with EU systems.

Embassy Sarajevo's Export Control and Related Border Security (EXBS) program is also actively engaged in conducting training courses and equipment donations for BiH Customs and Border Police to address border security. EXBS donated 55 computers and a computer server to BiH Border Police to support ICITAP's donation of software for the border security database mentioned above. Additionally, EXBS recently donated "Secure Video Link" technology to the BiH, Serbian, and Croatian Customs and Border Police. In the event of a terrorist incident, or other emergency, this electronic networking platform facilitates immediate communication among each agency's operations centers. BiH participated in multiple regional and bilateral programs aimed at building investigative and prosecutorial capacity to successfully address terrorism-related cases. The Department of State's Antiterrorism Assistance program supported BiH participation in a series of border security-related courses aimed at countering foreign terrorist fighter travel.

**Countering the Financing of Terrorism:** BiH belongs to the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a Financial Action Task Force-style regional body. Its financial intelligence unit is a member of the Egmont Group. In April, MONEYVAL referred Bosnia to the FATF International Cooperation Review Group (ICRG) process citing lack of progress rectifying core anti-money laundering/countering the financing of terrorism (AML/CFT) deficiencies, including the criminalization of terrorist financing, thereby placing BiH on its "grey list." ICRG review has accelerated BiH efforts to amend its criminal code according to international AML/CFT standards.

**Countering Violent Extremism:** The main religious communities in BiH (Catholic, Islamic, Jewish, and Orthodox) continued to work together through the Interreligious Council to promote tolerance and confront acts of bigotry or violent extremism directed at any of the communities. Among public figures, the leader of the Islamic Community in BiH, Reis Kavazovic, continued to speak out against "misinterpretations of Islam" that lead to violent extremism. On December 4, more than 37 political, religious, and cultural representatives of the Bosniak people attended a meeting with Kavazovic in Sarajevo to condemn violent radicalism and terrorism worldwide. The attendees issued a joint statement calling on Bosniak Muslims to follow "a middle way in Islam" and to confront radical Islamism and terrorism.

**International and Regional Cooperation:** BiH's criminal code and related legal framework are generally harmonized with UN and EU counterterrorism standards. The BiH government participated in the Leaders' Summit on Countering ISIL and Violent Extremism in September on the margins of the UNGA, and sent representatives to the Regional Summit on Countering Violent Extremism organized by the Department of State in Albania in May. BiH law enforcement agencies regularly interacted with their U.S. and European counterparts on counterterrorism investigations. INTERPOL has a Sarajevo branch office that has good cooperation with all law enforcement agencies throughout the country, all of which have direct access to INTERPOL's databases. Regional cooperation amongst professional law enforcement with Croatia and Serbia improved in 2015. BiH participated in a range of counterterrorism and CVE programs sponsored by UN entities and regional organizations, including the OSCE.

## International Sanctions

Pursuant to Council Decision 2011/173 the EU has imposed travel bans and asset freezes against certain persons undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina.

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	39
World Governance Indicator – Control of Corruption	45

## Corruption and Government Transparency - Report by Global Security

### Political Climate

According to the Bertelsmann Foundation 2012, effective governance continues to be hampered by the abuse of constitutional mechanisms, designed to ensure fair ethnic representation in state institutions. These behaviours threaten the government's legitimacy, stability, and ability to fight corruption. This has led the European Commission in its 2012 Progress Report to call for 'stronger commitment and determined action' against corruption.

Freedom House 2012 reports that political instability resulted in a lack of progress in 2011. Many of the country's reforms have been internationally driven, e.g. through the Office of the High Representative (OHR). Towards the end of 2009, following the limited progress of the previous anti-corruption strategy, the government set out the 2009-2014 Strategy for the Fight against Corruption (in Serbo-Croat). Furthermore, efforts towards fighting corruption have resulted in the establishment of an anti-corruption agency as reported by Global Integrity 2011. Since its creation in 2011, the anti-corruption agency has suffered a lack of resources and funding, which have hampered its ability to tackle corruption in the country, as reported by a 2012 article by Balkan Insight. The European Commission's 2012 Progress Report evaluates that the anti-corruption agency's efforts in fighting corruption throughout 2012 as ineffective. The same report also states that a very limited progress has been made in tackling corruption, which remains widespread throughout the public and private sectors. In addition, only limited steps have been taken in the implementation of the 2009-2014 anti-corruption strategy and action plan.

According to Freedom House 2013, citizens have little trust in public institutions or in the existence of political will to deal with corruption. This is largely due to uncontrolled corruption and ample evidence connecting corrupt high-level politicians and political parties with organised crime. This is supported by Transparency International's Global Corruption Barometer 2010/2011, which reports that citizens perceive the country's political structures to be deeply affected by corruption, ranking political parties as the most corrupt institution in the country, with close to 50% of responding households perceiving political parties to be 'extremely corrupt'. Moreover, the same source reports that 71% of citizens believe that the government's efforts to combat corruption are ineffective. A legal framework to tackle corruption is in place, but political will to tackle the issue and improve institutional capacity remains weak.



## Business and Corruption

Since the end of the 1992-1995 war, Bosnia and Herzegovina has demonstrated progress in stabilising the country and the economy. However, due to a wide range of problems, many of which are legacies from the war, the country still struggles with trying to win the confidence of its citizens, the international community and investors. Consequently, levels of foreign investment remain low. Furthermore, the political elite have secured profit through corruption and a tight-knit network of informal economic ties, as reported by the Bertelsmann Foundation 2010. Bosnia and Herzegovina has a large informal sector, reported to account for one-third of the country's GDP. Different administrative layers (the state level, the two entities, the northeast Brčko District, the cantons, and the municipalities and cities) produce confusion between the responsibilities and jurisdictions of government authorities, resulting in an increased frequency of face-to-face encounters between companies and civil servants. According to Global Integrity 2011, inspection authorities suffer from lack of transparency and integrity, making inspections a hot spot for corruption in Bosnia and Herzegovina. Corruption is pervasive within the country's institutions, particularly within the judiciary, the police and other law enforcement agencies, business licensing, public utilities, taxation, customs, and procurement. Local and cantonal authorities are often perceived as being the most corrupt, as they are subject to less monitoring than the state or entity level government, which makes enforcement and implementation of anti-corruption measures more challenging.

Corruption continues to be a widespread phenomenon in Bosnia and Herzegovina, linked to the dominant political parties and the oft-tainted privatisation process. Companies identify corruption as the ninth most problematic factor for doing business according to the World Economic Forum Global Competitiveness Report 2012-2013. However, it is important to note that the high level of corruption in Bosnia and Herzegovina should not be reduced to a question of questionable integrity among public officials. Private sector corruption is also prevalent, and the private sector is cited as a highly corrupt sector by 25% of the respondents in Transparency International's Global Corruption Barometer 2010/2011, indicating that citizens do not consider companies as being mere victims of corruption by public officials. According to the Global Competitiveness Report 2012-2013, Bosnia and Herzegovina performs poorly in relation to the ethical behaviour of companies. The private sector is indeed believed to be part of the problem due to its inclination to resort to bribery in order to secure favourable treatment. According to the World Bank & IFC Enterprise Surveys 2009, 8.1% of the surveyed companies doing business in Bosnia and Herzegovina report paying bribes to get things done. Facilitation payments are pervasive and companies should thus prepare themselves to deal with demands for such payments in virtually all phases of business activities in Bosnia and Herzegovina by developing, implementing and strengthening integrity systems, and practising thorough due diligence.

Organised crime is reported to be a major problem for companies in Bosnia and Herzegovina. According to a 2012 article on Organised Crime in Bosnia and Herzegovina, post conflict countries like Bosnia and Herzegovina provide a platform for organised crime, which is seen as the obstacle to attracting foreign direct investment. In relation to the prevalence of organised crime, money laundering is also pervasive, and observers report that fictitious companies, many owned by the mafia, are set up to facilitate money flows. Efforts to curb corruption have been stepped up by the state government, with some 400 officers involved in the 'Kastel' anti-corruption operation. Nevertheless, close links between profit-seeking political elites and organised crime remain. Companies are generally advised

to develop and/or improve their internal integrity systems to strengthen their resistance to fraud, bribery and corruption.

### **Regulatory Environment**

Bosnia and Herzegovina has made significant efforts to attract foreign investors by passing a liberal foreign investment law and uniform trade, corporate tax and customs policies. The state level Law on Foreign Direct Investment gives foreign investors the same rights as domestic investors, including bidding on privatisation tenders, and provides for non-restrictive investment, except in the media and defence sectors where foreign ownership is limited to 49%. The law also prohibits expropriation and nationalisation of assets, unless under exceptional circumstances. However, the investment climate in the country is far from ideal. Companies in the World Economic Forum Global Competitiveness Report 2012-2013 identify access to financing, political instability, tax rates, and government instability as the most problematic factors for doing business in Bosnia and Herzegovina.

According to the World Bank & IFC Doing Business 2013, starting a company in Bosnia and Herzegovina is a relatively complex and time-consuming task. The process requires 11 administrative steps, an average of 37 days and costs 14.9% of GNI per capita, which is more than double the regional average. The great differences in regulations between the entities of the Federation of Bosnia and Herzegovina and Republika Srpska make it difficult for companies wanting to do business across the country's changing regulatory regimes. Companies have to register in each entity in which they wish to conduct operations. Observers, such as the US Department of State 2013, agree that the insufficiently defined power-sharing agreements in Bosnia and Herzegovina produce complex legal and regulatory frameworks, partly due to the fact that laws and regulations at state and entity levels are often duplicative and contradictory and result in unclear responsibilities. These foster inconsistent procedures that encourage corruption. The regulatory environment also results in confusion among companies and leads to regulatory violations, which in turn fuels bribery and extortion amongst corrupt public officials. Forming a general view of all laws and rules that apply to a certain activity can be extremely difficult and foreign investors are therefore advised to obtain local assistance and advice and are reminded to conduct due diligence when facilitating with local agents. Both the Bosnia and Herzegovina Ministry of Finance and Treasury and the Foreign Investment Promotion Agency provide investors with useful links to government bodies across the country and in regard to the country's regulatory environment.

Intellectual Property Rights laws in Bosnia and Herzegovina provide for the basic IPR protection, but are being strengthened in preparation of eventual membership into the EU and WTO. However, the US Department of State 2013 reports that enforcement is poor. The computerisation of files at the Land Registry in Sarajevo took place in 2008 and has substantially sped up the process of registering property in that area. However, the weak judicial structures in Bosnia and Herzegovina pose a challenge to investors, as there is no means for rapid resolution of commercial disputes. There are only few non-judicial dispute resolution mechanisms available and commercial courts are still developing through capacity building and reforms to streamline procedures. Companies are thus currently forced into settling commercial disputes in the courts, which can be both time-consuming and costly and, according to some observers, appears to be less than objective. It is common to include an arbitration clause in commercial contracts, which allows for one party to bring a dispute before another nation's court - a practice permitted under Bosnian-

Herzegovinian law. This is in accordance with the New York Convention 1958. Access a collection of Bosnia and Herzegovina's and the Federation of Bosnia and Herzegovina legislation and of Republika Srpska's legislation.

## Section 3 - Economy

Bosnia has a transitional economy with limited market reforms. The economy relies heavily on the export of metals, energy, textiles and furniture as well as on remittances and foreign aid. A highly decentralized government hampers economic policy coordination and reform, while excessive bureaucracy and a segmented market discourage foreign investment. The interethnic warfare in Bosnia and Herzegovina caused production to plummet by 80% from 1992 to 1995 and unemployment to soar. With an uneasy peace in place, output recovered in 1996-99 but slowed in 2000-02 and picked up again during 2003-08, when GDP growth exceeded 5% per year. However, the country declined in 2009 reflecting local effects of the global economic crisis. GDP growth contracted again in 2012, but posted a small gain in 2013. Foreign banks, primarily from Austria and Italy, now control most of the banking sector. The konvertibilna marka (convertible mark or BAM) - the national currency introduced in 1998 - is pegged to the euro, and confidence in the currency and the banking sector has remained stable. Bosnia's private sector is growing slowly, but foreign investment has dropped sharply since 2007. Government spending - including transfer payments - remains high, at roughly 40% of GDP, because of redundant government offices at the state, entity and municipal level. Privatization of state enterprises has been slow, particularly in the Federation, where political division between ethnically-based political parties makes agreement on economic policy more difficult. High unemployment remains the most serious macroeconomic problem. Successful implementation of a value-added tax in 2006 provided a steady source of revenue for the government and helped rein in gray-market activity. National-level statistics have also improved over time but a large share of economic activity remains unofficial and unrecorded. Bosnia and Herzegovina became a full member of the Central European Free Trade Agreement in September 2007. Bosnia and Herzegovina's top economic priorities are: acceleration of integration into the EU; strengthening the fiscal system; public administration reform; World Trade Organization (WTO) membership; and securing economic growth by fostering a dynamic, competitive private sector. In 2009, Bosnia and Herzegovina was granted an International Monetary Fund (IMF) stand-by arrangement, necessitated by sharply increased social spending and a fiscal crisis exacerbated by the global economic downturn. Disbursement of IMF aid was suspended in 2011 after a parliamentary deadlock left Bosnia without a state-level government for over a year. The IMF concluded a new stand-by arrangement with Bosnia in October 2012 which aims to improve national policy coordination, continue fiscal contraction, improve crisis preparedness, and create an environment conducive to private sector development.

### **Agriculture - products:**

wheat, corn, fruits, vegetables; livestock

### **Industries:**

steel, coal, iron ore, lead, zinc, manganese, bauxite, aluminum, vehicle assembly, textiles, tobacco products, wooden furniture, ammunition, domestic appliances, oil refining

### **Exports - commodities:**

metals, clothing, wood products

**Exports - partners:**

Slovenia 17.3%, Croatia 16.5%, Italy 13.6%, Germany 12.8%, Austria 12.7% (2012)

**Imports - commodities:**

machinery and equipment, chemicals, fuels, foodstuffs

**Imports - partners:**

Croatia 21.1%, Germany 12.5%, Slovenia 12.4%, Italy 9%, Russia 7.3%, Austria 6.1%, Hungary 4.9%, Greece 4.3% (2012)

## Banking

With a growing number of foreign banks present in the country, competition is strong and banks are starting to offer an extended product range of financial instruments (credit cards, consumer loans, mortgages). However, the level of bank intermediation remains low, due to the slow restructuring of the economy. Small and medium size enterprises still experience difficulties obtaining long-term credit, a problem exacerbated by the ongoing financial crisis. Inadequate secured transaction regulations and an inefficient court system make collateral foreclosure difficult and increase the cost of capital. There are currently 29 commercial banks operating in BiH, 19 in the Federation and 10 in RS. The number of banks is still too large relative to the size of the country. Due to the minimum capital requirement of EUR 7.5 million, further consolidation is expected. The Central Bank of Bosnia and Herzegovina (CCBiH) ([www.cbbh.ba](http://www.cbbh.ba)) is the country's monetary authority. Its main goal is to maintain monetary stability under the present currency board arrangement, with full coverage in freely convertible foreign exchange funds under a fixed exchange rate of 1 KM: 0,51129 EURO. In addition, the CBBiH supports and maintains appropriate payment and settlement systems and co-ordinates the activities related to supervision of commercial banks and also coordinates the activities of the bank regulatory agencies in the two entities, which are in charge of bank licensing and supervision.

## Stock Exchange

Capital markets remain underdeveloped in Bosnia. Both entities have created their own modern stock market infrastructure with separate bourses in Sarajevo (SASE) and Banja Luka (BLSE), both of which started trading in 2002. The small sizes of the market, lack of progress on privatization, and public mistrust of previous voucher privatization programs have impeded the development of a market. Nonetheless, both stock exchanges experienced a significant boom in the first half of 2007, supported by strong performances in neighboring stock markets in Belgrade, Zagreb, and Ljubljana. However, during the second half of 2007 and throughout 2008 foreign investment dwindled and investors saw previous gains dissipate on both exchanges. While this has not had a significant impact on the broader Bosnian economy, it is

a setback to the development of Bosnia's capital market. For example, in 2008 the BLSE had a turnover smaller than KM 250 million (\$180 million), compared to KM 700 million (\$500 million) in 2007. This downward trend continued in 2009, shaped not only by the global financial crisis but also by Bosnia's own political instability and reform slowdown

## Executive Summary

### 1. Openness to, and Restrictions Upon, Foreign Investment

Bosnia and Herzegovina (BiH) still struggles to attract foreign investment. Although open to foreign investment, investors continue to face a number of serious obstacles including: multiple complex legal and regulatory frameworks and government structures; non-transparent business procedures; corruption; poor infrastructure; insufficient protection of property rights; and a weak judicial system. In addition, the country's political environment, coupled with the pressures of the global economic downturn, has stalled many key economic reforms.

Under the BiH constitution established through the Dayton Accords, Bosnia and Herzegovina is divided into two "entities," the Federation of BiH (the Federation) and the Republika Srpska (RS). A third, smaller area, the Brčko District, operates under a separate administration. The Federation is further divided into ten cantons, each with its own government and responsibilities. Each entity also has municipalities. As a result, BiH has a multi-tiered legal and regulatory framework that is often duplicative and contradictory. Employers pay a heavy burden to governments, an extra 69 percent of the wage level in the Federation and 52 percent in the RS, for mandatory health and pension contributions. Labor and pension laws are deterrents to investment.

The lack of a single economic space throughout BiH creates difficulties for companies trying to do business across the entire country. While corporate income taxes in the two entities and Brčko District are now harmonized at ten percent, entity business registration requirements are not harmonized. The RS has its own registration requirements, which apply to the entire entity. Each of the Federation's ten cantons has different business regulations and administrative procedures affecting companies. Simplifying and streamlining this framework is essential to improving the investment climate.

According to the World Bank, BiH ranks only above Tajikistan and Uzbekistan in the region of Europe and Central Asia in terms of ease of doing business. It ranked 131 out of 189 countries in the 2014 World Bank Doing Business report, down one spot from its ranking the previous year. BiH's position improved in three categories: trading across borders, enforcing contracts, and resolving insolvency. BiH's worst performance was in the following categories: starting a business, dealing with construction permits, and obtaining electricity. The World Bank estimates that in the city of Sarajevo, starting a business requires an average of 37 days and 11 separate procedures, well above the average for the region. BiH's full WB Doing Business review can be found at: <http://www.doingbusiness.org/ExploreEconomies/?economyid=26>. In 2013, the RS established a one-stop-shop for business registration in the RS. This reduces the required processes dramatically, and initial reports indicate the time to register a business in the RS is down to an average of one week.

Potential investors have been frustrated by the lack of attractive privatization opportunities, non-transparent government tender processes, and impediments to greenfield investment. Privatization offerings are scarce and often require unfavorable terms. For example, some formerly successful state-owned enterprises have accrued significant debts from unpaid health and pension contributions, and potential investors are required to assume these debts

and maintain the existing workforce. As a result, foreign investment -- including greenfield investment -- has significantly shrunk in the last several years. From a high of \$2.1 billion in 2007, foreign direct investment (FDI) totaled \$392 million in 2012 and was \$347 million in the first nine months of 2013. Most investments in 2012-2013 came from Russia, Austria, Croatia, Serbia, Slovenia and Germany.

The state-level Law on the Policy of Foreign Direct Investment provides a generic framework for foreign investment. The law accords foreign investors the same rights as domestic investors, including bidding on privatization tenders. With the exception of the defense industry and the media sector, where foreign control is limited to 49 percent of a single company, there are no restrictions on investment. Investors are also protected from changes in the Law on Foreign Investment. Should the government amend the legislation, the investor may choose the most favorable regulations to apply.

BiH has a Competition Council, designed to be an independent public institution to enforce anti-trust laws, prevent monopolies, and enhance private sector competition. The Council reviews and approves foreign investments in cases of mergers and acquisitions of local companies by foreign companies. The Competition Council consists of six members appointed for six-year terms of office with the possibility of one reappointment. The BiH Council of Ministers appoints three Competition Council members, the Federation Government appoints two members, and the RS Government appoints one member. From the six-member Competition Council, the BiH Council of Ministers appoints the president of the Council for a one-year term without the possibility of reappointment.

Public-private partnerships (PPPs) are gradually gaining wider acceptance with BiH officials. The RS currently has PPPs in the health-care and transportation sectors. Several cantons in the Federation adopted laws on public-private partnerships, with the goal of providing incentives for entrepreneurs and facilitating access to certain projects.

BiH has a Foreign Investment Promotion Agency: [www.fipa.gov.ba](http://www.fipa.gov.ba)

Following are BiH's third-party rankings on widely accepted measures of the business and investment environment:

Measure	Year	Index/Ranking
Transparency International Corruption Perception (CPI) Index	2013	72 (out of 176)
The Heritage Foundation Index of Economic Freedom	2014	101 (out of 178)
World Bank Ease of Doing Business Ranking	2014	131 (out of 189)
The World Economic Forum Global Competitiveness Index	2014	



		87 (out of 144)
<b>World Bank GNI per capita</b>	2013	\$4,750

## 2. Conversion and Transfer Policies

The Law on Foreign Direct Investment guarantees the immediate right to transfer and repatriate profits and remittances. Local and foreign companies may also hold accounts in one or more banks authorized to initiate or receive payments in foreign currency. The implementing laws in both entities include transfer and repatriation rights. The Central Bank's adoption of a currency board in 1997 guarantees that the local currency, the convertible mark or KM, is fully convertible to the euro with a fixed exchange rate of KM 1.95583 = €1.00.

## 3. Expropriation and Compensation

The state investment law forbids expropriation of investments, except in the public interest. According to Article 16, "Foreign investment shall not be subject to any act of nationalization, expropriation, requisition or measures that have similar effects, except where the public interest may require otherwise." In such cases of public interest, expropriation of investments would only be executed in accordance with applicable laws and regulations, would be free from discrimination, and would include payment of appropriate compensation. Neither entity government nor the state government has expropriated any foreign investments to date.

## 4. Dispute Settlement

BiH has a clogged court system and it often takes several years for a case to be brought to trial. The U.S. Government has provided training to judges, trustees, attorneys, and other stakeholders at both state and entity levels to assist in the development of bankruptcy and intellectual property rights laws. Those laws are now in effect at both the entity and state levels, but its implementation remains deficient.

Bosnia and Herzegovina has been a member of the International Center for the Settlement of Investment Disputes since 1997. It accepts international arbitration to settle private investment disputes if the parties outline this option in a contract.

Over the last decade, there has been only one case of a legal dispute involving a U.S. investor and the local government. While efforts are being made to improve BiH's commercial court system, its current capacity and practical inefficiencies limit timely resolution of commercial disputes.

## 5. Performance Requirements and Incentives

There are several incentives for foreign direct investment, including exemptions from payment of customs duties and customs fees. Bosnia and Herzegovina is divided into three jurisdictions for direct tax purposes: the Federation, the RS and the Brčko District. The corporate income tax in the Federation allows tax relief to foreign investors who invest KM 20 million (roughly \$14 million in April 2014) over a five-year period. The Federation exempts domestic and foreign companies from annual corporate profit tax if at least 30% of turnover at year end is from exports.

In the Federation, RS, and Brčko District, the corporate income tax allows offsetting of losses against profits over a five-year period. In the Brčko District, if an investor invests in fixed assets and pays taxes, this investment is subject to tax relief. There are no special investment incentives in the RS. Foreign investors can open bank accounts in all jurisdictions and transfer their profits abroad, without any restrictions. The rights and benefits of foreign investors granted and obligations imposed by the Law on the Policy of Foreign Direct Investment cannot be terminated or overruled by subsequent laws and regulations. Should a subsequent law or regulation be more favorable to foreign investors, the investor has the right to choose the most beneficial regulations.

## **6. Right to Private Ownership and Establishment**

Under the state-level investment law, a foreign enterprise has the same rights as a BiH enterprise or citizen, and foreign entities can establish and own a business with the same rights as domestic entities. However, the Federation Companies Law, unlike laws in the RS and the Brčko District, does not provide an option for foreign legal entities to establish a branch office. Foreign investors may own real estate in BiH and enjoy the same property rights as BiH citizens and legal entities, except in the defense industry and media, where foreign control is limited to 49 percent of a single company. Foreign interests must follow the same regulatory procedures when establishing their enterprises.

## **7. Protection of Property Rights**

### ***Real Estate Property***

Registration of real property titles is generally acknowledged as a significant barrier to the development of real property and mortgage markets. The present system consists of separate Geodetic Administrations for FBiH and RS, which are responsible for the real property cadasters. The real property cadasters describe and certify the legal object e.g. land, house. Separately, the land registry establishes legal ownership and rights for the specific object (e.g. land, house) and is maintained by municipal courts.

### ***Intellectual Property (IP) Rights***

Bosnia's intellectual property rights (IPR) framework consists of seven laws, adopted and put into force by the Parliament in 2010. This legislation is TRIPS and EU-compliant and includes laws on copyrights, patents, trademarks, geographical indications, and the topography of integrated circuits. BiH belongs to over 20 international treaties related to IPR and in 2009 ratified the 1996 WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. Although existing legislation provides a basic level of protection, BiH's civil and criminal enforcement remains weak.

Jurisdiction over IPR investigations is split between customs officials, entity inspectorates, and state and entity law enforcement agencies, and no institution has specialized IPR investigation teams. IPR crimes are prosecuted primarily at the state level. Those cases indicted often involve fairly low-level violators. The more significant cases have sometimes languished for years with little action from prosecutors or judges.

The entity governments have been using licensed software for a number of years and the state-level government came into compliance in 2009, a significant step forward in the government's commitment to IPR protection. However some officials still lack understanding of the importance of IPR. Illegal DVDs and CDs are still available for sale in small public

markets. BiH's enforcement record still leaves much room for improvement. At this time, there is no mechanism to combat digital piracy.

In BiH's private sector, awareness of IPR, particularly the importance of copyright protection, remains low. Curbing business software piracy could significantly improve the local economy through the creation of new jobs and the generation of significant tax revenue. Failure to recognize the importance of reducing copyright infringement makes software producers and official distributors less competitive and the establishment of a legitimate market more difficult. Businesses lose an estimated \$15 million from the sale of counterfeit software, CDs, and DVDs. According to the Business Software Alliance (BSA), the rate of illegal software installed on personal computers in Bosnia and Herzegovina currently remains at 66 percent, which is the regional average.

The U.S. Government, in conjunction with local partners, has made IPR awareness within the enforcement community a priority through training and public awareness programs. In February 2013, the Embassy organized an IPR enforcement discussion with entity and cantonal market inspectors, representatives of the Business Software Alliance (BSA), the American Chamber of Commerce in BiH, and several U.S. software companies. In addition, the Embassy sponsored an IPR project with the Association for the Protection of Audiovisual Works (APAW) BiH, focused on the film industry, digital piracy, and necessary updates to BiH legislation. Finally in 2013, the U.S. Department of Commerce provided technical assistance through a judicial capacity building project focused on the adjudication of intellectual property infringement cases.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: Matthew Fullerton [FullertonMA@state.gov](mailto:FullertonMA@state.gov)

Embassy lawyers list link: : <http://sarajevo.usembassy.gov/lawyers.html>

## **8. Transparency of the Regulatory System**

Establishing a business in BiH can be an extremely burdensome and time-consuming process for investors. Registration is an 11-step procedure that takes, on average, 37 days to complete. Retaining a local lawyer may expedite the process. The administrative costs are approximately \$450 and attorney's fees range from \$200 to \$1,000. Notary services are necessary when establishing a company, for real estate proceedings and for changes to the court registry. Once a company is registered in one of the entities, branch offices can be established in the other entity without a separate company registration procedure. This significantly reduces the time and administrative hurdles to expand operations. Other administrative procedures can be more time-consuming. For example, obtaining a construction permit can take six months to one year. Investors often complain about lack of transparency and potential corruption in this process.

The multitude of state, entity, cantonal (in the Federation only), and municipal administrations – each with the power to establish laws and regulations affecting business – creates a heavily bureaucratic, non-transparent system. It is difficult to know all of the laws or rules that might apply to certain business activities, given overlapping jurisdictions and the lack of any central source of information. Foreign investors often, therefore, obtain local assistance and advice. In an effort to promote the growth of business in its entity, the

Republika Srpska government passed a series of amendments in fall and winter 2013 to create an RS one-stop-shop for business registration. This institution centralizes the process of registering a business, ostensibly making it easier, faster and cheaper for new business owners to register their companies in the RS.

Businesses are subject to inspections from a number of entity and cantonal/municipal agencies including the financial police, labor inspectorate, market inspectorate, sanitary inspectorate, health inspectorate, fire-fighting inspectorate, environmental inspectorate, institution for the protection of cultural monuments, tourism, and food inspectorate, construction inspectorate, communal inspectorate, and veterinary inspectorate. Some investors have complained about non-transparent fees levied during inspections, changing rules and regulations, and an ineffective appeals process to protest these fines.

## **9. Efficient Capital Markets and Portfolio Investment**

Capital markets remain underdeveloped in BiH. Both entities have created their own modern stock market infrastructure with separate bourses in Sarajevo (SASE) and Banja Luka (BLSE), both of which started trading in 2002. The small size of the markets, lack of privatization, and public mistrust of previous voucher privatization programs has impeded the development of a market. Nonetheless, both stock exchanges experienced a significant boom in the first half of 2007, supported by strong performances in neighboring stock markets in Belgrade, Zagreb, and Ljubljana. However, during 2008 and the global economic crisis, foreign investment dwindled and investors saw previous gains dissipate on both exchanges. Foreign investment has shown no signs of growth since 2008, shaped not only by the global financial crisis but also by BiH's lack of political stability and slowdown of reforms. Both the RS and FBiH issued government securities for the first time during 2011, as part of their plans to raise capital in support of their budget deficits during this period of economic stress. Both entity governments continue to issue government securities in order to fill budget gaps. These securities are also available for secondary market trading on the stock exchanges.

In their annual credit analysis report released in December 2013, Moody's Investors Service said that Bosnia and Herzegovina's B3 rating with stable outlook remains constrained by the complexities of the country's political system, the depletion of its productive base, wide external deficits, and the country's substantial unemployment. The report suggested the rating could improve upon implementation of structural reforms, improved ethnic relations, and if BiH were to gain EU candidacy status. Moody's noted that Bosnia's credit strengths include its favorable government debt profile relative to its rating peers, as its debt is mainly owed to multilateral and bilateral creditors on concessional terms. The report also noted that large external trade and current account deficits and the lack of access to the private global capital market make the economy heavily dependent on capital inflows from concessional lenders.

On September 27, 2013, Standard & Poor's Ratings Services (S&P) affirmed its B/B long- and short-term foreign and local currency sovereign credit ratings on Bosnia and Herzegovina. The outlook on the ratings is stable, the agency said in a statement. According to S&P, Bosnia and Herzegovina's ratings are constrained by its fragile, overlapping government institutions, weak fiscal management framework, and external vulnerabilities arising from persistent current account deficits and funding challenges.

Bosnia and Herzegovina's banking and financial system has been stable with the most significant investment coming from Austria. As of February 2014, 28 commercial banks

operated in BiH; 18 with headquarters in the Federation and 10 in the Republika Srpska. Total assets of commercial banks operating in Bosnia and Herzegovina reached \$14.6 billion at the end of September 2012. 25 commercial banks are members of a deposit insurance scheme, which provides for deposit insurance in the amount of KM 35,000 (\$25,000).

In 2004, BiH passed a state-level framework law mandating the use of international accounting standards, and in 2005 both entities passed legislation eliminating the previous differences in standards that existed between the entities and Brčko District. All governments have implemented accounting practices that are fully in line with international norms. However, these standards have not yet been fully implemented throughout the country due to weak accounting capacity and failure of the government to translate international standards into local language so that firms can implement the standards. Legislative officials have been criticized for attempts to change these standards in an effort to protect local accounting firms. Foreign investors should therefore carefully scrutinize Bosnian corporate financial statements.

#### **10. Competition from State-Owned Enterprises (SOEs)**

Generally, private companies compete with public enterprises under the same terms and conditions with respect to access to markets, credit and other business operations. However, in the sectors such as telecommunications and electricity, state-owned enterprises hold a near-monopoly, making hefty profits as a direct result of their dominant market position. Generally, government-owned companies are controlled by various alliances of political parties, increasing the possibilities for corruption and inefficient company management.

#### **11. Corporate Social Responsibility (CSR)**

Foreign and local companies exercise some corporate social responsibility activities and awareness. More could be done in this area to respond to BiH's various social and economic needs. In general, consumers tend to view favorably companies that initiate and carry out charitable activities in the local market.

#### **12. Political Violence**

The war in Bosnia and Herzegovina was halted by the Dayton Peace Accords in November 1995. Armed conflict has ceased and there have been no attacks targeting foreign investments. However, there are still risks from occasional, localized political and criminal violence.

In mid-June 2013 and early 2014, large groups of citizens protested the country's economic stagnation and the government's apparent inability to improve the situation. The vast majority of protests were peaceful with relatively small numbers of participants. The first string of protests took place in Sarajevo, while the second outbreak of protests occurred in several cities throughout the country but mainly within the Federation. Protests in early 2014 in the cities of Sarajevo, Mostar, and Tuzla resulted in attacks on government buildings, destruction of government property, and injury. There were no reports of foreign investors being directly targeted in the protests.

#### **13. Corruption**

Corruption remains prevalent in many political and economic institutions in Bosnia and Herzegovina and raises the costs and risks of doing business. BiH's overly-complex business

registration and licensing process is particularly vulnerable to corruption. The multitude of state, entity, cantonal and municipal administrations, each with the power to establish laws and regulations affecting business, creates a system that lacks transparency and opens opportunities for corruption. With the large number of levels involved, there are multiple opportunities to demand "service fees." Paying bribes to obtain necessary business licenses and construction permits, or simply to expedite the approval process, occurs regularly.

Transparency International's (TI) 2013 Corruption Perception Index ranked BiH 72nd out of 176 countries. BiH and Serbia shared the 91st slot in 2013, outperforming only Kosovo and Albania in the Western Balkans, and ranking behind Montenegro (67th), Croatia (62nd) and Macedonia (69th). According to TI, which maintains offices in BiH, relevant institutions lack the will to become actively involved in fighting corruption. Law enforcement agencies and the judiciary are not effective in the prosecution of corruption cases and are visibly exposed to political pressures. Prosecutors complain that citizens generally do not report instances of corruption and do not want to testify in these cases. At the end of 2011, BiH established a state level agency to prevent and coordinate efforts to combat corruption; while officially active, the agency has shown limited results.

Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It deters foreign investment, stifles economic growth and development, distorts prices, and undermines the rule of law. U.S. companies must carefully assess the business climate and develop an effective compliance program and measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms should take the time to become familiar with the relevant anticorruption laws of both BiH and the United States in order to properly comply, and where appropriate, seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, and uphold obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

#### **U.S. Foreign Corrupt Practices Act:**

The Foreign Corrupt Practices Act of 1977 was enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Since 1977, the anti-bribery provisions of the FCPA have applied to all U.S. persons and certain foreign issuers of securities. With the enactment of certain amendments in 1998, the anti-bribery provisions of the FCPA now also apply to foreign firms and persons who cause, directly or through agents, an act in furtherance of such a corrupt payment to take place within the territory of the United States.

#### **Local Laws:**

U.S. firms should become familiar with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

### **Assistance for U.S. Businesses:**

The U.S. Department of Commerce offers several services to aid U.S. businesses. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting due diligence when choosing business partners or agents overseas and provide support for qualified U.S. companies bidding on foreign government contracts. For a list of U.S. Foreign and Commercial Service offices: [www.trade.gov/cs](http://www.trade.gov/cs)

Alleged corruption by foreign governments or competitors can be brought to the attention of appropriate U.S. government officials, including U.S. Embassy personnel or through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" Website at [tcc.export.gov/Report\\_a\\_Barrier/index.asp](http://tcc.export.gov/Report_a_Barrier/index.asp)

### **Anti-Corruption Resources**

Useful resources regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at <http://www.justice.gov/criminal/fraud/fcpa>
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at <http://cpi.transparency.org/cpi2012/> TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. See: <http://archive.transparency.org/publications/gcr>
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at [http://www.oecd.org/departement/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html) Also refer to the Antibribery Recommendation and Good Practice Guidance Annex for companies at <http://www.oecd.org/dataoecd/11/40/44176910.pdf>
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html)
- The World Bank Worldwide Governance Indicators (WGI) assess six areas of governance including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp) The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at <http://go.worldbank.org/RQOXYJ6210>
- The World Economic Forum's *Global Enabling Trade Report* ranks the Enabling Trade Index, and assesses the transparency of border administration (focused on bribe payments and corruption). See: <http://www.weforum.org/reports>

- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 92 countries regarding governance and anti-corruption at <http://report.globalintegrity.org/>

#### **14. Bilateral Investment Protection Agreements**

BiH has signed/ratified 42 agreements to promote and protect investments with the following countries: Albania, Austria, Belgium, Belarus, China, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Netherlands, Hungary, India, Iran, Italy, Jordan, Kuwait, Lithuania, Luxembourg, Macedonia, Malaysia, Moldova, Montenegro, Netherlands, Pakistan, Portugal, Qatar, Romania, Serbia, Libya, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, UAE, Ukraine, and the United Kingdom

BiH does not have a bilateral investment treaty with the United States.

#### **15. OPIC and Other Investment Insurance Programs**

OPIC's activities in BiH include: insurance for investors against political risk, coverage of losses due to expropriation of assets, political violence, and currency inconvertibility; and insurance coverage for contracting, exporting, licensing and leasing transactions.

Political risk insurance is also available from the EU Investment Guarantee Trust for BiH, administered by the Multilateral Investment Guarantee Agency, a World Bank affiliate.

#### **16. Labor**

BiH has a workforce with lower labor costs by western standards, and university enrollments have been increasing for a number of years. However, several sectors such as construction, information technology, and health care have experienced a significant loss of skills over the past decade, due to a lack of education and job training opportunities, as well as emigration. Tax rates on labor are high, discouraging employment of new workers and increasing incentives for unregistered employment. Current labor legislation provisions make it difficult to dismiss redundant and inefficient workforce.

In addition, a rigid wage determination system stands in the way of job creation and worker mobility. This is a result of a collective bargaining system that retains most of its socialist era characteristics. Employees and employers share the costs of health care, pension, and unemployment insurance in the Federation, while in the Republika Srpska employers cover all of these costs, as well as child care contributions. Many employers underreport their labor force to avoid paying taxes and benefits, creating a significant gray market. Official unemployment was approximately 44 percent at the end of 2013, while unemployment based on the ILO definition was approximately 27 percent at the end of 2013.

#### **17. Foreign Trade Zones/Free Ports**

The BiH Law on Free Trade Zones allows the establishment of free trade zones (FTZs) as part of the customs territory of BiH. Currently there are four free trade zones in BiH: Vogosca, Visoko, Hercegovina-Mostar, and Holc Lukavac. One or more domestic or foreign legal entities registered in BiH may create a FTZ. The users of FTZs do not pay taxes and contributions, with



the exception of those related to salaries and wages. Investors are free to invest capital in the FTZ, transfer their profit and retransfer capital. Customs and tariffs are not paid on imports into FTZs. The import of equipment for manufacturing within FTZs may be discontinued, however, if the value of goods produced and exported abroad is less than 75 percent of the total value of goods produced in that zone.

## **18. Foreign Direct Investment and Foreign Portfolio Investment Statistics**

According to BiH Central Bank data, from a high of \$2.1 billion in 2007, foreign direct investment (FDI) totaled \$392 million in 2012, and was \$347 million in the first nine months of 2013. In terms of country origin of 2012 investment inflows, the most investments came from Russia (\$108 million), Austria (\$88 million) and Croatia (\$82 million). Also in 2012, Saudi Arabia and Kuwait registered an increase in the amount of investment. In the past fifteen years, Austria has been the largest investor (24 percent), followed by Serbia (17 percent), Croatia (13 percent), Slovenia (9 percent), Russia (9 percent) and Germany (6 percent). The manufacturing sector had the highest percentage of FDI, followed by the banking and trade sectors.

BiH imports almost twice as much as it exports. According to the BiH Agency for Statistics, 2013 imports totaled \$10.3 billion with total exports at \$5.6 billion. BiH statistics report that \$263 million worth of U.S. goods were consumed in BiH in 2013. According to the U.S. Census Bureau, the U.S. imported BiH goods valued at \$57 million. In 2013, the U.S. ranked in 11th place in terms of total U.S.-BiH foreign trade. U.S. exports to BiH were primarily computer and electronic products, agricultural products, machinery and transport equipment, and raw materials for industrial processing.

Bosnia and Herzegovina had been designated as a beneficiary country under the United States Generalized System of Preferences (GSP) program; however, legal authorization for the GSP program has expired. As of August 1, 2013, imports previously eligible for duty-free treatment under GSP are subject to regular, normal trade relations duties. The U.S. Congress is considering legislation that would extend the authorization of GSP.

The Interim Agreement on Trade and Trade-related matters (IA) between the European Union and Bosnia and Herzegovina is currently in force. According to the IA, all goods of BiH origin that fulfill EU technical-technological standards and conditions can be imported to all EU countries without any quantitative restrictions and without paying customs or other similar duties. Only sugar, wine, fish and baby beef are subject to specific quotas beyond which duties are to be paid by Bosnia and Herzegovina for the export to the EU. Since 2009, import tariffs have been eliminated for more than 11,000 products that BiH imports from the EU. With Croatia's accession to the EU, Bosnia and Herzegovina now imposes substantial import duties on agricultural products from Croatia, in particular on milk and certain meat and meat products. The EU has raised concerns over these agricultural import duties.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chiefs of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

civil law system; Constitutional Court review of legislative acts

### International organization participation:

BIS, CD, CE, CEI, EAPC, EBRD, FAO, G-77, IAEA, IBRD, ICAO, ICC (NGOs), ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MONUSCO, NAM (observer), OAS (observer), OIC (observer), OIF (observer), OPCW, OSCE, PFP, SELEC, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO (observer)

## Section 6 - Tax

### Exchange control

For further information - <http://cbbh.ba/?id=1&lang=en>

### Treaty and non-treaty withholding tax rates

For further information - <http://cbbh.ba/?id=1&lang=en>

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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