

Botswana

RISK & COMPLIANCE REPORT

DATE: January 2017

Executive Summary - Botswana	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Compliance of OECD Global Forum's information exchange standard
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.) Failed States Index (Political Issues)(Average Score)
<p>Major Investment Areas:</p> <p>Agriculture - products: livestock, sorghum, maize, millet, beans, sunflowers, groundnuts</p> <p>Industries: diamonds, copper, nickel, salt, soda ash, potash, coal, iron ore, silver; livestock processing; textiles</p> <p>Exports - commodities: diamonds, copper, nickel, soda ash, meat, textiles</p> <p>Imports - commodities: foodstuffs, machinery, electrical goods, transport equipment, textiles, fuel and petroleum products, wood and paper products, metal and metal products</p>	
<p>Investment Restrictions:</p> <p>There are no known practices by private firms to restrict foreign investment participation or control in domestic enterprises. Private firms are not permitted to adopt articles of incorporation or association which limit or prohibit foreign investment, participation or control.</p>	

Contents

Section 1 - Background.....	3
Section 2 - Anti – Money Laundering / Terrorist Financing	4
FATF status.....	4
Compliance with FATF Recommendations.....	4
Key Findings from latest Mutual Evaluation Report (2008):	4
US Department of State Money Laundering assessment (INCSR)	5
Report	9
International Sanctions.....	11
Bribery & Corruption.....	12
Corruption and Government Transparency - Report by US State Department	12
Section 3 - Economy.....	14
Banking.....	14
Stock Exchange.....	15
Section 4 - Investment Climate	16
Section 5 - Government.....	31
Section 6 - Tax.....	32
Methodology and Sources.....	34

Section 1 - Background

Formerly the British protectorate of Bechuanaland, Botswana adopted its new name upon independence in 1966. More than four decades of uninterrupted civilian leadership, progressive social policies, and significant capital investment have created one of the most stable economies in Africa. Mineral extraction, principally diamond mining, dominates economic activity, though tourism is a growing sector due to the country's conservation practices and extensive nature preserves. Botswana has one of the world's highest known rates of HIV/AIDS infection, but also one of Africa's most progressive and comprehensive programs for dealing with the disease.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Botswana is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Botswana was undertaken by the Financial Action Task Force (FATF) in 2007. According to that Evaluation, Botswana was deemed Compliant for 3 and Largely Compliant for 6 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2008):

Botswana has set up the key fundamental components of an AML regime, through various legislative and regulatory instruments, though there are some inconsistencies between these instruments. Notwithstanding the fact that several of these components fall short of meeting the international standards, the key challenge for Botswana is to implement effectively its current regime. The legal and regulatory instruments encompass in particular criminalization of ML, confiscation of proceeds of crime, preventive measures, and suspicious transaction reporting. However, the AML preventive regime does not cover some of the financial activities set out by FATF, nor any of the Designated Non-Financial Businesses and Professions. Transparency issues relating to legal entities, legal arrangements and non-profit organizations are also of concern.

Botswana has ratified the United Nations Convention on the Suppression of the Financing of Terrorism but has not criminalized the financing of terrorism. As such, it lacks a legal framework allowing it to effectively fight against terrorist financing. Botswana should expedite the criminalization of terrorism financing and set up an appropriate legal framework to enable it to comply with its international obligations in respect of terrorist financing. The country also suffers from some restrictions to Mutual Legal Assistance and administrative forms of international cooperation.

The key components of the institutional framework for AML (law enforcement, prosecution, supervisory bodies) are in place. However, only the Central Bank has been enforcing the AML requirements. All actors need more training and enhanced resources to effectively play their role in the AML regime. Fostering domestic coordination and cross-fertilization is also central to achieving greater impact.

The priority in the short run should be to significantly enhance the implementation of the current legal framework, which would enable it to better realize its potential. Only then will Botswana be in a better position to address the existing gaps in its AML framework and to customize it to the reality of the threat which it faces. In that respect, recent efforts by the authorities (preparation of a national strategy, set-up of a domestic coordination committee, preparation of draft AML/CFT law 1) are going in the right direction and need to be deepened and enlarged.

US Department of State Money Laundering assessment (INCSR)

Botswana was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Botswana aspires to be a regional financial center under its national Economic Diversification Drive strategy. Although money laundering in Botswana is not primarily related to narcotics, there has been an increase in drug trafficking in recent years, as well as in the sophistication and level of organization of cross-border crime. The presence of organized criminal groups continues to grow as does the trade in second-hand cars, which present certain risks related to money laundering. Fraud perpetrated against large organizations, e.g., banks or government departments, typically with the collusion of an employee, continues, and money laundering prosecutions have centered on these types of criminal activity. Law enforcement officials report an upsurge of cigarette smuggling in 2015. Botswana is a cash-based society and has an insufficient framework for addressing money laundering and terrorism financing.

Botswana supplies many of the world's diamonds. The stringent institutional framework for the mining and processing of diamonds affords limited opportunity for organized diamond smuggling. The smuggling that does occur is not believed to be linked to terrorism financing or the laundering of criminal proceeds. The DeBeers' diamond trading facility relocated from London to Gaborone in 2013, and the Government of Botswana continues to pursue expansion of its downstream diamond manufacturing. The growth of this industry presents an increased risk of money laundering and illicit financing activity.

Botswana operates the International Financial Service Center (IFSC), an organization authorizing entities to provide offshore financial services. IFSC-accredited companies provide a range of financial services, including fund management, banking, international insurance, and intermediary services. Those services must be provided to clients outside Botswana and in currencies other than the pula. The supervisory standards applied to domestic financial service providers are also applicable to IFSC-authorized entities. Shell companies and anonymous directors are prohibited.

The Botswana Authorities believe there is a low risk of terrorist activity in the country, but they remain concerned about the potential for terrorists to focus on Botswana as a soft target.

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: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: NO Domestic: NO
KYC covered entities: Banks, building societies, collective investment undertakings, the Botswana Savings Bank, post offices, registered stockbrokers, long-term insurance businesses, foreign exchange dealers, and the IFSC certification committee

REPORTING REQUIREMENTS:

Number of STRs received and time frame: Not available
Number of CTRs received and time frame: Not available
STR covered entities: Banks, building societies, collective investment undertakings, the Botswana Savings Bank, post offices, registered stockbrokers, long-term insurance businesses, foreign exchange dealers, and the IFSC certification committee

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: Not available
Convictions: Not available

RECORDS EXCHANGE MECHANISM:

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

Botswana is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

In 2015, three key laws related to AML/CFT entered into force: the Proceeds and Instruments of Crime Act (PICA) and the Anti-Human Trafficking Act (AHTA) on January 1, 2015; and the Counter-Terrorism Act (CTA) on May 1, 2015. The PICA introduces a system for identifying and forfeiting assets. Previously, the Directorate of Public Prosecution's Asset Forfeiture Unit had seized assets before trial but they could only be forfeited or confiscated after conviction. The CTA criminalizes the financing of terrorism, makes it a crime not to report suspected terrorist financing, and introduces the ability to freeze terrorist assets without delay. The AHTA criminalizes human trafficking and supporting human trafficking. It creates a victims support fund and establishes a steering group to coordinate anti-human trafficking activities.

The Government of Botswana is now pursuing several legislative amendments with the goal of obtaining parliamentary approval in 2016. The proposals include criminalizing the financing of an individual terrorist, providing for effective implementation of UNSCRs 1267

and 1373, covering additional money laundering-related offenses, strengthening cross-border currency reporting requirements, removing Financial Intelligence Agency Act (FIA Act) exemptions for certain entities, and adding customer due diligence obligations to the FIA Act. The proposals also would introduce requirements related to politically exposed persons (PEPs).

An amendment to the Firearms and Ammunition Act addressing arms proliferation remains pending. An amended version of the bill geared to improve corporate governance was submitted to Parliament for consideration in November 2015.

Capacity-building training and technical assistance will be key to the Financial Intelligence Agency's (FIA) successful performance. The FIA is preparing its first annual report and is developing its information release policies. In 2015, the FIA continued training workshops for lawyers, police, and real estate agents.

The Non-Bank Financial Institutions Regulatory Authority is responsible for AML oversight of non-financial institutions. However, there is no legal provision in Botswana for a covered entity, other than a bank, to monitor complex, unusually large transactions or unusual patterns of transactions with no apparent lawful purpose.

The Directorate on Corruption and Economic Crime is investigating corruption cases, but the Directorate of Public Prosecutions is under-resourced and lacks the training and experience to obtain convictions in those cases.

Botswana continued to improve its AML/CFT regime in 2015, although further steps are needed to bring it fully in line with international standards. The FIA is working to complete its National Risk Assessment in 2016. This process will provide insights into the strengths and weaknesses of Botswana's AML/CFT regime and clarify next steps and priority issues.

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

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

System for Identifying/Forfeiting Assets - The jurisdiction has enacted laws authorizing the tracing, freezing, seizure, and forfeiture of assets identified as relating to or generated by money laundering activities.

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.

Ability to freeze assets without delay - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

Criminalised Financing of Terrorism - The jurisdiction has criminalized the provision of material support to terrorists and/or terrorist organizations.

Reports Suspected Terrorist Financing - By law or regulation, banks and/or other covered entities are required to record and report transactions suspected to relate to the financing of terrorists, terrorist groups or terrorist activities to designated authorities.

EU White list of Equivalent Jurisdictions

Botswana 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

Botswana is not considered an Offshore Financial Centre

US State Dept Narcotics Report

No report available

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

Botswana 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.

Botswana is a source and destination country for women and children subjected to forced labor and sex trafficking. Residents of Botswana most susceptible to trafficking are unemployed men and women, those living in rural poverty, agricultural workers, and children. Some parents in poor rural communities send their children to work for wealthier families as domestic servants in cities or as herders at remote cattle posts. Young Botswana serving as domestic workers for extended family or friends of family in some cases may be denied access to education and basic necessities or subjected to confinement or verbal, physical, or sexual abuse—all conditions indicative of forced labor. Botswana girls are exploited in prostitution within the country, including in bars and along major highways by truck drivers. The ILO and a child welfare organization in Botswana believe that a significant minority of persons in prostitution are children. Undocumented Asian immigrants may be vulnerable to forced labor due to the threat of deportation; for example, in a previous year, an Indian national was held in forced labor through nonpayment of wages and withholding of his passport by traffickers of the same nationality. NGOs report forced labor of both adults and children of the San ethnic minority group on private farms and at cattle posts.

The Government of Botswana does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these efforts, including the Botswana Police Service's (BPS) survey of potential trafficking cases, the government did not demonstrate evidence of overall increasing anti-trafficking efforts compared to the previous year; therefore, Botswana is placed on Tier 2 Watch List. The government has never criminally prosecuted or convicted a trafficking offender, and did not investigate reports of complicity by officials in trafficking crimes. The Ministry of Defense, Justice, and Security (MDJS)—the lead ministry overseeing anti-trafficking efforts—did not make progress in developing national anti-trafficking policy during the reporting period. The government did not enact draft anti-trafficking legislation or launch an awareness-raising campaign. It also has yet to develop formal victim identification and referral procedures—inhibiting the identification and provision of services to victims among vulnerable groups, including women in prostitution and undocumented migrants. Officials did not address gaps in its social assistance programming, which prevented the provision of protection services to the large majority of children discovered in prostitution in the previous reporting period; the government continued to not provide assistance to these children because they were neither orphans nor destitute.

US State Dept Terrorism Report 2009

Botswana has a National Counterterrorism Committee to address issues pertaining to terrorism and weapons of mass destruction. Botswana established its first intelligence agency in 2008, with responsibility for both domestic and foreign intelligence gathering. In April, Botswana's Parliament passed legislation to create a Financial Intelligence Unit (FIU), which will harmonize Botswana's anti-money laundering and counterterrorist financing regime. While the legislation for this has been enacted, the FIU was not yet established at year's end. Until the FIU is functioning, the Directorate on Corruption and Economic Crimes has a dedicated unit that will continue investigating suspicious transactions. One goal of this legislation is to decrease the likelihood that terrorist financing could move through Botswana's financial institutions. Terrorist financing is not criminalized as a specific offense in Botswana. However, acts of terrorism and related offenses, such as aiding and abetting, can be prosecuted under the Penal Code and under the Arms and Ammunitions Act.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	60
World Governance Indicator – Control of Corruption	77

Corruption and Government Transparency - Report by US State Department

Botswana has a reputation for a relative lack of corruption and a willingness to prosecute corrupt officials. Transparency International ranks Botswana as the least corrupt country in Africa (30th overall), and a 2013 report by the World Justice Project ranked Botswana number one on its regional rule of law index. Investors with experience in other developing nations describe the relative lack of obstruction or interference by law enforcement or other government agents as among the country's most important assets.

The major corruption investigation body is the Directorate on Corruption and Economic Crimes (DCEC). Overall, the DCEC is regarded as an active and independent organization. The DCEC has embarked on an education campaign to raise public awareness about the cost of corruption and is also working with Government departments to reform their accountability procedures.

Corruption or "cheating for valuable consideration" is punishable by a prison term of up to 10 years, a fine of 500,000 Pula (USD 64,000), or both. The DCEC received 1800 reports of corruption in 2011, a 3% decrease over the previous year. The DCEC investigated 433 allegations in 2012, and the government typically obtains 16-20 convictions per year for corruption-related crimes. High level officials have been prosecuted.

The 2000 Proceeds of Serious Crime Act expanded the DCEC's mandate to include money laundering. The 2009 Financial Intelligence Act provides a comprehensive legal framework to address money laundering and establishes a financial intelligence agency (FIA). The FIA, which operates under the Ministry of Finance and Development Planning, cooperates with various institutions, such as Directorate of Public Prosecutions (DPP), Botswana Police Service, Bank of Botswana, the Non-Banking Financial Institutions Regulatory Authority (NBFIRA), the DCEC, and foreign FIAs to uncover and investigate suspicious financial transactions. Botswana is a member of the Eastern and Southern Anti-Money Laundering Group (ESAAMLG), a regional standards-setting body for ensuring appropriate laws, policies and practices to fight money laundering and the financing of terrorism.

In 2011, ESAAMLG issued a report placing Botswana under enhanced monitoring due to its lack of progress in implementing key AML/CFT regulations. The ESAAMLG report states that Botswana continues to have deficiencies in the areas of anti-terrorism legislation, anti-money

laundering laws that provide for civil forfeiture, and a lack of regulations allowing the FIA to receive and review suspicious transaction reports (STRs) from the banking sector and certain other financial institutions.

Botswana is not a party to the OECD Anti-bribery Convention but is a party to the 2005 UN Anticorruption Convention.

Section 3 - Economy

Botswana has maintained one of the world's highest economic growth rates since independence in 1966. However, economic growth was negative in 2009, with the industrial sector shrinking by 30%, after the global crisis reduced demand for Botswana's diamonds. Although the economy recovered in 2010, GDP growth has again slowed. Through fiscal discipline and sound management, Botswana transformed itself from one of the poorest countries in the world to a middle-income country with a per capita GDP of \$16,400 in 2013. Two major investment services rank Botswana as the best credit risk in Africa. Diamond mining has fueled much of the expansion and currently accounts for more than one-third of GDP, 70-80% of export earnings, and about one-third of the government's revenues. Botswana's heavy reliance on a single luxury export was a critical factor in the sharp economic contraction of 2009. Tourism, financial services, subsistence farming, and cattle raising are other key sectors. According to official government statistics, unemployment reached 17.8% in 2009, but unofficial estimates run much higher. The prevalence of HIV/AIDS is second highest in the world and threatens Botswana's impressive economic gains. An expected leveling off in diamond production within the next two decades overshadows long-term prospects. A major international diamond company signed a 10-year deal with Botswana in 2012 to move its rough stone sorting and trading division from London to Gaborone by the end of 2013. The move may support Botswana's downstream diamond industry.

Agriculture - products:

livestock, sorghum, maize, millet, beans, sunflowers, groundnuts

Industries:

diamonds, copper, nickel, salt, soda ash, potash, coal, iron ore, silver; livestock processing; textiles

Exports - commodities:

diamonds, copper, nickel, soda ash, meat, textiles

Imports - commodities:

foodstuffs, machinery, electrical goods, transport equipment, textiles, fuel and petroleum products, wood and paper products, metal and metal products

Banking

Botswana's banking sector consists of a central bank (Bank of Botswana) and seven commercial banks: Barclays Bank Botswana, Standard Chartered Bank Botswana, First National Bank Botswana, Bank of Baroda Botswana Ltd., Stanbic Bank Botswana, Capital Bank, African Banking and Bank Gaborone.

There are a growing number of investment and corporate finance institutions, including Investec Group, Andisa Bank, and the African Banking Corporation of Botswana, which specialize in structured trade finance, treasury operations, and investment banking. All are geared towards financing for existing and new businesses. However, a lack of adequate local corporate financing, partially as a result of over-concentration on asset-based as opposed to cash flow lending practices, has presented some problems for local and international businesses. The financial institutions are now improving the range of services they provide, including a new emphasis on small and medium-sized enterprises. In 2008 Government established the Non Banking Financial Institution Regulatory Authority to ensure that the non banking financial sector operates in an efficient and orderly manner. The newly-emerging group of international financial institutions that are entering Botswana under the umbrella of the International Financial Services Center (IFSC) should augment these efforts. The total number of Botswana IFSC certified companies now stands at 35.

The Bank of Botswana is responsible for monetary policies, central banking services, supervision of financial institutions, issuing of bank notes, implementing exchange rate policies, administering exchange controls and foreign exchange reserves management. The bank's financial statements comply with international standards.

Short-term finance, including pre-and-post-shipment credit, is readily available through the commercial banking system at market rates of interest. Export credit insurance is available through the Botswana Export Credit Insurance (BECI) agency.

The provisions for foreign firms borrowing in Botswana are liberal while local banks remain highly liquid. The country's commercial banks, however, have difficulty making long-term credit available due to the short maturity nature of their deposits and small capital bases.

Stock Exchange

The Botswana Stock Exchange (BSE) enjoyed spectacular growth between 2000 and 2006. In 2010, still reeling from the effects of the recession, the market capitalization of the domestic firms listed on the exchange fell to its lowest level since 2006. The Foreign Company Index, however, increased by 23% during 2010. The number of foreign companies listed in the exchange was unchanged at 11. Six of these are mining-related operations. The BSE is set to shift to automated trading in 2011.

Executive Summary

Botswana is a stable, democratic country which has historically enjoyed among the highest economic growth rates in the world. Botswana has consistently ranked number one in Africa on Transparency International's anti-corruption index, and its 56th place ranking on the 2014 annual World Bank/IFC Doing Business compares favorably to all but three other sub-Saharan African countries. Botswana's per capita income of \$16,105 (based on purchasing power parity) makes it an Upper Middle-Income Country according to the World Bank.

Botswana's export-driven economy is highly correlated with global economic trends. In the aftermath of the global financial crisis, Botswana's economy went into recession, posting a negative GDP growth rate of 4.9%. Weakened demand for mineral resources, particularly diamonds, hampered growth in 2011 and 2012 when GDP growth was 6.1% and 4.2% (est.), respectively. Botswana maintains a conservative fiscal policy and low levels of foreign debt. In February of 2014, the Government of Botswana (GoB) reported an unanticipated \$45 million USD surplus for FY 2013. Better-than-expected diamond and customs revenues helped recharge the GoB's current account, which was projected to be in deficit as late as November of last year. The 4.1% year-end inflation rate in 2013 was the lowest since 1971. Botswana's trade balance is largely tied to the global demand for diamonds. As of December 31, 2013, Moody's and S&P rate Botswana's sovereign debt as A2 and A-, respectively.

Government spending has traditionally played a large role in Botswana's economy. The government employs about 40% of workers and employees of quasi-public "parastatal" firms make up another 5%. Botswana has been able to keep expenditures higher than the emerging market average because it has combined high diamond revenue with prudent fiscal policies. However, diamond stores are expected to decline within 10-15 years, and Botswana must confront the prospect of declining diamond revenues over the medium to long term. Diamond revenue has traditionally contributed about 40% to government income, but demand is volatile and has trended downward in recent years. Revenue from the Southern African Customs Union (SACU) replaced diamonds as the largest source of government income in 2012. Today diamonds and customs revenue each contribute to about 30% of total government revenue, however the variability of this income, which is subject to global and regional economic trends, are largely outside of the GoB's control. These conditions make for difficult forecasting and place added pressure on policy makers to plan conservatively.

Investment Climate Indices		
Measure	Year	Index or Rank
Transparency International Corruption Index	2013	30 out of 177
Heritage Foundation's Economic Freedom Index	2014	27 out of 178
World Bank's Doing Business Report	2014	56 out of 189

1. Openness to, and Restrictions Upon, Foreign Investment

Investment Support

The GoB has launched initiatives to promote economic activity and foreign investment in specific areas, including the establishment of “hubs” to promote economic growth in the agriculture, diamond, education, health and transportation sectors. It has abolished all foreign exchange controls and instituted low corporate tax rates. It has also convened a government-wide task force to improve scores in specific areas of the World Bank’s Doing Business report.

The Botswana Investment and Trade Centre (BITC) provides assistance to local and foreign investors. BITC is responsible for promoting foreign direct investment, investor aftercare, and the promotion of locally-manufactured goods in export markets. It also assists investors with company registration, land acquisition, factory shells, utility connections, and work and residence permits for essential staff. Requests by investors for investor support from BITC and other agencies are evaluated based on the extent to which the proposed project assists in the government’s diversification efforts, contributes to the growth of priority sectors, and provides employment and training to Botswana citizens. The government also makes grants available to investors who partner with citizens and will extend credit to investors presenting proposals that have undergone appropriate due diligence and which have completed a feasibility study. Foreign investors are also encouraged to transfer technology to Botswana and skills to Botswana citizens with a view to preparing them for promotion into management positions.

While the GoB has stated that it wants to attract foreign investment, its policies do not always make it easy for foreign firms to do business. The Ministry of Labour and Home Affairs, which has jurisdiction over the provision of residency and work permits, has denied permits to a large number of skilled foreign workers without detailed explanation, prompting many foreign-owned businesses, as well as foreign chambers of commerce, to express concern over their ability to establish or maintain commercial operations. At the same time, the GoB has not moved aggressively to reduce the time and cost of trading across borders, which are among the highest in the world and have contributed to the decline of the manufacturing sector.

Licensing

Foreigners who wish to operate a business in Botswana are required to register their enterprise under the Companies Act and, in most cases, to obtain the relevant licenses and permits as prescribed by the Trade Act of 2008.

Licenses are required for a wide array of businesses, including banking, non-bank financial services, transportation, medical services, mining, energy provision, and alcohol sales. Although recent amendments to the Trade Act have eliminated the catch-all “miscellaneous” business license category, owners report that some local authorities will insist that a business apply for a license even though the business does not clearly fall into one of the established categories. As a result, owners may be forced to choose a category in which to be licensed. In addition, some businesses have observed that the enforcement of licenses, as well as the time taken for inspections to comply with licensing requirements, varies widely

across local government authorities. Botswana's procedures for obtaining construction permits are lengthy, taking an average of 69 days and 21 separate procedures to complete. The Embassy continues to engage with the Government of Botswana to highlight this and other licensing difficulties.

Botswana reserves some licenses solely for citizens, including butcheries, general trading establishments, gas stations, liquor stores, supermarkets (excluding chain stores), bars (other than those related to hotels), certain types of restaurants, boutiques, auctioneers, car washes, domestic cleaning services, curio shops, fresh produce vendors, funeral homes, hairdressers, various types of rental/hire services, laundromats, specific types of government construction projects under a certain dollar amount, certain activities related to road and railway construction and maintenance, and certain types of manufacturing activities including the production of furniture for schools, welding, and bricklaying.

The Ministry of Trade and Industry, which administers the citizen participation initiative, has taken an expansive interpretation of "chain stores" to mean any store with more than one outlet. This interpretation has resulted in exemptions being applied to supermarkets, simple specialty operations, and general trading stores. Consequently, many large general merchandise markets, restaurants, and grocery networks are owned by foreigners. Foreign investors are legally permitted to participate in all other sectors not otherwise reserved for locals.

Privatization

The government is moving toward privatizing a number of state-owned businesses. As part of this effort, it has established the Public Enterprise Evaluation and Privatization Agency

(PEEPA). The government believes that privatization would generate much-needed capital, but there are significant concerns within government circles that rapid privatization would cause extensive job losses. Initial privatization plans, none of which have been implemented, call for the GoB to maintain at least a 51% ownership of the company to be privatized. The GoB's unwillingness to cede effective control to the private sector has led to concerns that initial public offerings will be unsuccessful, and these concerns, among others, have contributed to delays in the privatization effort.

Privatization efforts initially focused on the national airline, Air Botswana. After more than 12 years of effort and multiple attempts to reach agreement with strategic partners, the airline has still not been privatized. The planned privatizations of six other state organizations, including the Botswana Telecommunications Corporation and the National Development Bank, are behind schedule.

The ability of PEEPA to manage the privatization of state-owned enterprises is hampered by the fact that there is no privatization-implementing legislation. As a result, the decision to privatize, and the speed with which a parastatal is privatized, remains with the relevant ministry or department.

Competition Policy

Botswana has developed anti-trust legislation and policies to ensure appropriate competition in the business environment. Under the Competition Act, the newly-established Competition

Authority is now monitoring vertical and horizontal market agreements and mergers and acquisitions. Between March and September of 2012, the Competition Authority investigated 39 cases of anti-competitive behavior. While the Competition Authority is charged with ensuring that businesses do not engage in anti-competitive conduct, it is also empowered to reject mergers when they are deemed not to be "in the public interest." The Competition Authority has interpreted this power to mean that it should prohibit mergers when it would result in the concentration of shares in the hands of non-citizens. Of the three merger applications in 2012, two were rejected under this "public interest" exception.

2. Conversion and Transfer Policies

There are no foreign exchange controls in Botswana and no restrictions on capital outflows through financial institutions. Commercial banks are required to ensure that their customers

complete basic forms indicating name, address, purpose and other details prior to processing funds transfer requests or loan applications. The Ministry of Finance monitors data collected on the forms for statistical information on capital flows, but the form does not require government approval prior to the processing of a transaction and does not delay capital transfers.

To encourage portfolio investment, develop domestic capital markets, and diversify investment instruments, non-residents are able to trade in and issue Botswana Pula-denominated bonds with maturity periods of more than one year, provided such instruments are listed on the Botswana Stock Exchange (BSE). Botswana's "Letlole Saving Certificate" (the equivalent of a U.S. Treasury bond) can be purchased only by Botswana citizens. Foreigners can hold shares in BSE-listed Botswana companies.

Botswana residents are permitted to invest overseas and borrow offshore. Travelers are not restricted to the amount of currency they may carry on their person or in their baggage, but they are required to declare to customs at the port of departure any cash amount in excess of 10,000 Pula (USD \$1,200). There are no quantitative limits on foreign currency access for current account transactions.

Foreign currency-denominated accounts are permitted in Botswana. At present, commercial banks offer accounts denominated in U.S. Dollars, British Pounds, Euros and South African Rand. Businesses and other bodies incorporated or registered under the laws of Botswana may open such accounts without prior approval from the Bank of Botswana. The government also permits the issuance of foreign currency denominated loans.

Upon disinvestment by a non-resident, the non-resident is allowed immediate repatriation of all proceeds including profits, rents, fees, etc.

There is no difficulty in obtaining foreign exchange. Shortages of foreign exchange that would lead banks to block transactions are highly unlikely.

3. Expropriation and Compensation

The Constitution of Botswana prohibits the nationalization of private property. The Government of Botswana has never pursued a policy of forced nationalization and is highly unlikely to adopt such a policy.

4. Dispute Settlement

The Constitution of Botswana provides for an independent judiciary. Civil law is based on the Roman-Dutch system. The courts enforce legal agreements related to commercial disputes and the judicial system is widely regarded as fair. Foreign and domestic businesspersons have equal access to the judicial system. In general, Botswana courts will enforce decisions of a foreign court found to have jurisdiction in a given case. Botswana is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

In the past, U.S. litigants have complained that the time taken to obtain and enforce a judgment in a commercial dispute is unreasonably long. In an effort to create more efficient adjudications, the government has established land tribunal, industrial, small claims and corruption courts. During the past several years, some dockets have improved but progress has been uneven.

The laws of Botswana, including Bills before Parliament, are searchable and accessible through the Botswana Attorney General's Office web site (www.laws.gov.bw). It can take up to 24 months for a law, once passed, to appear on the web site.

Botswana's commercial and bankruptcy laws are comprehensive. Secured and unsecured creditors enjoy similar rights under bankruptcy proceedings as they would in the United States. Botswana is a member of the International Center for the Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA), and therefore accepts binding international arbitration of investment disputes.

5. Performance Requirements and Investment Incentives

Performance requirements are not imposed as a condition for establishing, maintaining, or expanding an investment in Botswana, or for access to tax and investment incentives. Foreign investors are encouraged, but not compelled, to establish joint ventures with citizens or citizen-owned companies.

Foreign investors wishing to invest in Botswana are required to register the company in accordance with the Companies Act and comply with other applicable legislation. Investors are encouraged, but not required, to purchase from local sources. The Government does not require investors to locate in specific geographical areas, use a specific percentage of local content, permit local equity in projects, manufacture substitutes for imports, meet export requirements or targets, or use national sources of financing for private-sector investments.

As a policy matter, the government encourages foreign firms to hire qualified Botswana nationals rather than expatriates, and the granting of work permits to expatriates may be made contingent upon establishment of demonstrable "localization" efforts. When such a

contingency is imposed, after the company's start-up period, the government may require evidence that a citizen is being trained to assume some of the duties being filled by an expatriate, particularly at the middle-management level. The government offers training incentives to companies that train citizen employees, including allowing companies to deduct 200% of training expenses when training with an accredited institution. The government has introduced a range of policy initiatives intended to mitigate the impending loss of diamond revenue and decrease government spending, including an Economic Diversification Drive (EDD), which employs government purchases to stimulate local production and consumption, as well as a wage freeze to reduce the size of the public sector wage bill.

Many investors who rely on expatriate managerial and technical expertise believe that immigration is a major regulatory constraint. In response to complaints that the immigration authorities lacked the necessary skill and expertise to properly adjudicate applications for individuals with certain technical skill sets, Botswana implemented a Points Based System (PBS) to evaluate work permits in 2012. The PBS resulted in immediate and widespread complaints that it was too stringent. As a result, the government announced that it would review the policy, however, there is evidence that restrictions have not relaxed. The Ministry of Labour and Home Affairs, which has jurisdiction over the provision of residency and work permits, has recently denied permits to a large number of skilled foreign workers, prompting many foreign-owned businesses, as well as foreign chambers of commerce, to express concern over their ability to establish or maintain commercial operations. Recent amendments to the Immigration Law do not appear to be designed to address the problem. Firms that retain BITC's investment services are afforded priority in the permitting process and may avoid some of the delays that have been reported in finalizing immigration documents.

Grants are available to foreign investors who partner with Botswana citizens. The Citizen Entrepreneurial Development Agency (CEDA) has established a venture capital fund to provide equity to citizens and ventures between citizens and foreign investors. Foreign investors do not have access to Botswana government loans and grants designed specifically for citizen-owned contracting firms or for small enterprises.

The government, the largest procuring entity in the country, has directed central government, local authorities and parastatals to purchase all products and services from locally-based manufacturers and service providers if the goods and services are locally available, competitively priced, and meet tender specifications in terms of quality standards as certified or recognized by the Botswana Bureau of Standards. The Department of Industrial Affairs under the Ministry of Trade and Industry (MTI) administers this program.

In order for a foreign firm to qualify with the Department of Industrial Affairs as a "locally-based manufacturer or service provider" to sell goods or services to the government of Botswana, the firm first must be registered with the Registrar of Companies and possess a relevant license or a waiver letter written by a "competent authority." Few of these procedures can be completed online. Therefore, in practice companies need to hire an agent on the ground to handle registrations.

For Companies Act registration purposes, enterprises are classified as follows: Micro Enterprises —less than 6 employees including owner and annual turnover of up to 60,000 Pula;

Small Enterprises — less than 25 employees and annual turnover of between 60,000 and 1,500,000 Pula; Medium Enterprises — less than 100 employees and an annual turnover of between 1,500,000 and 5,000,000 Pula; Large Enterprises — more than 100 employees and an annual turnover of 5,000,000 Pula or more.

Botswana has one of the lowest corporate tax rates in sub-Saharan Africa. The standard company tax rate is 22%; manufacturing companies registered in Botswana approved by the Minister of Finance and Development Planning, and offshore financial services companies are subject to a reduced rate of 15%.

The Minister of Finance and Development Planning has the authority to issue “Development Approval Orders” for specific projects, providing special tax relief and/or education and training grants of different types and rates. The Minister must be satisfied that the proposed project will be beneficial to Botswana’s economy. Any firm, local or foreign, may apply for a Development Approval Order through the Permanent Secretary for Finance and Development Planning. Applications will be evaluated against the following criteria: job creation for Botswana citizens; the company's training plans for Botswana citizens; the company's plans to localize non-citizen positions; Botswana citizen participation in company management; amount of equity held by Botswana citizens in the company; the location of the proposed investment; the project's effect on the stimulation of other economic activities; and the project's effect on reducing local consumer prices. The MTI also offers rebates on imported materials for manufactures that produce products for export.

6. Right to Private Ownership and Establishment

Other than the previously identified business sectors reserved for citizen ownership, Botswana has no restrictions on investment ownership, the sources of financing for investments, the marketing of products, the sources of technology used by companies, or the methods of training used by companies. Foreign and domestic private entities may freely establish, acquire, and dispose of their interests in business enterprises.

7. Protection of Property Rights

There are three main categories of land in Botswana: freehold, state land, and tribal land. Tribal and state land cannot be sold to foreigners. There are no restrictions on the sale of freehold land, but only about 5% of land in Botswana is freehold. In the capital city of Gaborone, the number of freehold plots is limited.

State land represents about 25% of land in Botswana. On application to the Department of Lands, both foreign-owned and local enterprises registered in Botswana may lease state land for industrial or residential use. Commercial use leases are for 50 years and residential leases are for 99 years. Waiting periods tend to be long for leasehold applications, but subleases from current leaseholders are available.

Tribal land represents 70% of land in Botswana. To obtain a lease for tribal land, the investor must approach the relevant local Land Board. Processes are unlikely to be streamlined or consistent across Land Boards.

Since independence, the trend in Botswana has been to increase the area of tribal land at the expense of both state and freehold land.

Landlord-tenant law in Botswana tends to be moderately pro-landlord.

In addition to helping investors who meet its criteria obtain appropriate land leaseholds, the Botswana Investment and Trade Centre (BITC) has also built factory units for lease to industrialists with the option to purchase at market value.

Intellectual property rights are protected under the Industrial Property Act of 2010, the Registration of Business Names Act of 1975 and the Copyright & Neighboring Rights Act of 2000. Other IP-related Laws include the Competition Act, the Value Added Tax Act, the Botswana Penal Code, the Customs and Excise Duty Act, the Monuments and Relics Act, the Broadcasting Act, and the Societies Act.

Botswana is a signatory to the Beijing Treaty on Audiovisual Performances, the Hague Agreement Concerning the International Deposit of Industrial Designs, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Convention Establishing the World Intellectual Property Organization (WIPO), the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Patent Cooperation Treaty, the Berne Convention for the Protection of Literary and Artistic Works and the Paris Convention for the Protection of Industrial Property.

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: Goitseone Montsho: MontshoG@state.gov

Local lawyers list:

<http://photos.state.gov/libraries/botswana/19452/pdfs/List%20of%20Attorneys.pdf>

8. Transparency of the Regulatory System

Bureaucratic procedures necessary to start and maintain a business tend to be open, though slow. Foreign investors' complaints generally focus on the inefficiency and/or unresponsiveness of mid-level and low-level bureaucrats in government. The government has introduced a Performance Management System to improve the service and accountability of government employees, but its effectiveness has not yet been evaluated.

The Public Procurement and Asset Disposal Board (PPADB) has oversight over the award of all government tenders. Prospective government contractors are required to register with the PPADB. The PPADB maintains a process by which tender decisions can be challenged, and a bidder can also challenge a tender procedure in the courts. The PPADB publishes its decisions concerning awarded tenders, prequalification lists, and newly registered contractors.

The PPADB Act calls for preferential procurement of citizen-owned contractors for "works, service and supplies," as well as "specific, disadvantaged women's communities," though it states that such preferences must be time-bound, phased in and out as necessary, and

consistent with the country's external obligations and its "market-oriented, macroeconomic framework." When a procuring entity wishes to reserve a tender for citizen-only participation, it is required to publish a notice to that effect either in the bid document or the pre-qualification notice.

Health and safety laws, embodied in the Factories Act of 1973, provide basic protection for workers from unsafe working conditions. Minimum working conditions required on work premises include cleanliness of the premises, adequate ventilation and sanitation, sufficient lighting and the provision of safety precautions. Health inspectors and the Botswana Bureau of Standards carry out periodic checks at both new and operating factories.

9. Efficient Capital Markets and Portfolio Investment

The government encourages the establishment of new and diverse financial institutions to support increased foreign and domestic investment and to fill existing gaps where finance is not commercially available. There are currently eight commercial banks, one merchant bank and one offshore bank, one statutory deposit-taking institution and one credit union operating in Botswana. All have corresponding relationships with U.S. banks. Additional financial institutions include various pension funds, insurance companies, microfinance institutions, stock brokerage companies, asset management companies, statutory finance institutions, collective investment undertakings, and statutory funds. Historically, commercial banks have accounted for 92% of total deposits and 98% of total loans in Botswana. A large portion of the population does not participate in the formal banking sector.

The Non-Bank Financial Institutions Regulatory Authority (NBFIRA) was established in 2008 and provides regulatory oversight for the non-banking sector. It extends know-your-customer practices to non-banking financial institutions and is intended to help deter money laundering and terrorist financing. NBFIRA is also responsible for regulating the International Financial Services Centre, a hub charged with promoting the financial services industry in Botswana.

In 2011, the Government of Botswana launched the Financial Intelligence Agency, an independent government body responsible for the investigation of money laundering and terrorist finance. The FIA is set to assist the Botswana Police Service, Directorate on Corruption and Economic Crime, and Department of Public Prosecution to identify and investigate money laundering offenses. However, Botswana has yet to implement an internationally accepted anti-money laundering and terrorist finance (AML/CTF) regime (see section on Corruption). In 2011, the Eastern and Southern Africa Anti-Money Laundering Group placed Botswana under enhanced monitoring.

Botswana's central bank, the Bank of Botswana (BOB), acts as banker and financial advisor to the government and is responsible for the management of the country's foreign exchange reserves, the administration of monetary and exchange rate policies, and the regulation and supervision of financial institutions in the country. Monetary policy in Botswana is widely regarded as prudent and the government has successfully managed to maintain stable exchange rate and inflation rate (an average of 4.4% between December 2013 and February 2014), falling within the BoB's target of 3 to 6%.

The Botswana Pula has a crawling peg exchange rate and is tied to a basket of currencies comprised of approximately two-thirds South African rand and one third Special Drawing Right (SDR) (SDR is itself a currency basket, comprised of the U.S. dollar, the Euro, British pound, and Japanese yen). This currency weighting means that the exchange rate is heavily influenced by movements of the South African rand against the U.S. dollar.

The Bank of Botswana maintains a long-term sovereign wealth fund, known as the Pula Fund, in addition to a regular foreign reserve account providing basic import cover. The Pula Fund, with an estimated value of some USD 7 billion, was established under the Bank of Botswana Act and forms part of the country's foreign exchange reserves, which are primarily funded by diamond revenues. The Pula Fund is wholly invested in foreign currency-denominated assets and is managed by the Bank of Botswana Board with input from recognized international financial management and investment firms. All realized market and currency gains or losses are reported in the Bank of Botswana's income statement.

Botswana banks may lend to non-resident controlled companies and other non-resident owned business entities in Botswana without specific approval from the Bank of Botswana. As a practical matter, foreign investors usually enjoy better access to credit than local firms due to the limited capital base of local entrepreneurs and conservative lending policies by commercial banks. Access to credit is frequently cited as a significant constraint for commercial enterprises. Commercial lenders generally apply a debt to equity ratio of 4:1. Authorized dealers and credit institutions licensed by the Bank of Botswana are allowed to make foreign currency-denominated loans, financial leases and other forms of financial support to their customers in Botswana whether or not they have onshore accounts.

The BSE had a total of 36 listed companies as of April 08, 2014: 23 companies on the Domestic Board and 13 companies on the Foreign Equities Board. In addition, two exchange traded funds are listed on the exchange. The total market capitalization for listed companies, as of April 07, 2014, was 415.9 billion Pula (USD 52 billion), though most of that is taken up by one company, Anglo-American Plc, which has a market capitalization of some 347 billion Pula. The BSE is still highly illiquid compared to larger African markets and is dominated by mining companies which adds to index volatility. Laws prohibiting insider trading and securities fraud are still under development.

The Government has legitimized offshore capital investments and allows foreign investors, individuals and corporate bodies, and companies incorporated in Botswana to open foreign currency accounts in specified currencies. The designated currencies are U.S. Dollar, Pound Sterling, Euro and the South African Rand. There are no known practices by private firms to restrict foreign investment participation or control in domestic enterprises. Private firms are not permitted to adopt articles of incorporation or association which limit or prohibit foreign investment, participation or control.

In general, Botswana exercises careful control over credit expansion, the Pula exchange rate, interest rates, and foreign and domestic borrowing. With the exception of deficiencies relating to AML/CTF regulations (see Corruption), banking legislation is largely in line with industry norms for regulation, supervision, and payments.

10. Competition from State Owned Enterprises

State-owned enterprises (SOEs) are majority or one hundred percent owned by the Government. Some SOEs are state-sanctioned monopolies, including the Botswana Meat Commission, the Water Utilities Corporation, Botswana Railways and Botswana the Power Corporation. SOEs appoint a CEO, who reports to a Board of Governors, which reports to the relevant government Ministry. Board members are appointed by line ministers and are drawn from both the government and the private sector.

Private and government-owned enterprises are governed by the same business registration and licensing laws. No law or regulation prohibits or restricts private enterprises from competing with SOEs. Botswana law requires SOEs to publish annual reports and, depending on how they are constituted, SOEs are audited by private sector accountants or the Auditor General. In 2011, Parliament also began overseeing SOEs, compelling Presidents and Chairmen to appear before Parliamentary committees to provide reports and answer questions regarding their performance. Many SOEs are not performing well and several, including the Botswana Meat Commission, the Botswana Telecommunications Corporation and the Botswana Power Corporation, have been embroiled in scandals involving alleged fraud and mismanagement. One former CEO and several employees of the BTC were indicted on corruption charges in 2012.

11. Corporate Social Responsibility

Corporate Social Responsibility (CSR) is recognized and embraced by government, some foreign and local firms, and customers. Major banks, such as Standard Chartered, and cell phone providers, such as Mascom, have established CSR programs, sponsor projects and support local nonprofit concerns. However, the CSR ethos has not taken hold in many smaller firms. The U.S. Embassy worked with the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) on the issue of CSR and ethical compliance to help enlist companies to sign onto a Corporate Code of Conduct that covers, among other things, conflicts of interest, bribery, political interference, political party funding, procurement and bidding and issues surrounding residence and work permits. While the Code of Conduct is voluntary, it envisions amending Botswana's Procurement Act to allow only firms that have signed on to participate in tenders. It also envisages procedures whereby firms may be de-listed as signatories. To date, 25 firms have signed the Code of Conduct.

12. Political Violence

There is no political violence in Botswana. The 2011 April-June public sector strike saw some police deployed to respond to clashes with protesters but, with the exception of a few minor instances, the demonstrations did not turn violent.

13. Corruption

Botswana has a reputation for a relative lack of corruption and a willingness to prosecute corrupt officials. Transparency International ranks Botswana as the least corrupt country in Africa (30th overall), and a 2013 report by the World Justice Project ranked Botswana number one on its regional rule of law index. Investors with experience in other developing nations describe the relative lack of obstruction or interference by law enforcement or other government agents as among the country's most important assets.

The major corruption investigation body is the Directorate on Corruption and Economic Crimes (DCEC). Overall, the DCEC is regarded as an active and independent organization. The DCEC has embarked on an education campaign to raise public awareness about the cost of corruption and is also working with Government departments to reform their accountability procedures.

Corruption or “cheating for valuable consideration” is punishable by a prison term of up to 10 years, a fine of 500,000 Pula (USD 64,000), or both. The DCEC received 1800 reports of corruption in 2011, a 3% decrease over the previous year. The DCEC investigated 433 allegations in 2012, and the government typically obtains 16-20 convictions per year for corruption-related crimes. High level officials have been prosecuted.

The 2000 Proceeds of Serious Crime Act expanded the DCEC's mandate to include money laundering. The 2009 Financial Intelligence Act provides a comprehensive legal framework to address money laundering and establishes a financial intelligence agency (FIA). The FIA, which operates under the Ministry of Finance and Development Planning, cooperates with various institutions, such as Directorate of Public Prosecutions (DPP), Botswana Police Service, Bank of Botswana, the Non-Banking Financial Institutions Regulatory Authority (NBFIRA), the DCEC, and foreign FIAs to uncover and investigate suspicious financial transactions. Botswana is a member of the Eastern and Southern Anti-Money Laundering Group (ESAAMLG), a regional standards-setting body for ensuring appropriate laws, policies and practices to fight money laundering and the financing of terrorism.

In 2011, ESAAMLG issued a report placing Botswana under enhanced monitoring due to its lack of progress in implementing key AML/CFT regulations. The ESAAMLG report states that Botswana continues to have deficiencies in the areas of anti-terrorism legislation, anti-money laundering laws that provide for civil forfeiture, and a lack of regulations allowing the FIA to receive and review suspicious transaction reports (STRs) from the banking sector and certain other financial institutions.

Botswana is not a party to the OECD Anti-bribery Convention but is a party to the 2005 UN Anticorruption Convention.

14. Bilateral Investment Agreements

Botswana does not have any bilateral investment agreements. Botswana's trade and tariff policies have largely been influenced by its membership in the Southern African Customs Union (SACU), which includes South Africa, Namibia, Swaziland and Lesotho. SACU has announced that it is planning to pursue free trade negotiations with China and India in addition to its Trade and Investment Cooperation Agreement with the U.S. and the Free Trade Agreement that it signed with Iceland, Liechtenstein, Norway, Switzerland, and the European Free Trade Association. Botswana is also a member of the Southern African Development Community (SADC). Botswana has signed an interim Economic Partnership Agreement with the EU as part of SADC. Botswana and the United States entered into an investment guarantee agreement soon after independence. In addition, Botswana participates in the Generalized System of Preferences, and is an Africa Growth and Opportunity Act beneficiary country. Finally, Botswana has bilateral trade agreements governing the duty-free entry of goods with Malawi and Zimbabwe.

Botswana's trade regime is more open than that of an average sub-Saharan Africa country. According to the 2010 World Trade Indicators published by the World Bank, Botswana's MFN Tariff Trade Restrictiveness Index (TTRI) was 7.7%, as compared to 7.4% in 2011 for sub-Saharan Africa (the lower percentage indicates fewer trade restrictions). Botswana has improved its ease of doing business score with respect to trading across borders after it installed a new scanner on the Botswana-South African border. In addition, Botswana and Namibia are participating in a joint program to create a single software platform for customs clearance procedures.

Botswana's tariff policy is governed by SACU, which controls customs and excise duties on goods imported from non-SACU countries and establishes transit rights for products transported over Southern African territory. Botswana has erected some non-tariff barriers to trade, including import permit requirements for a variety of food products, seasonal trade bans on selected agricultural goods, and a state monopoly on beef exports. An ongoing USAID-funded program is working with the Government of Botswana and SADC to reduce those barriers.

Botswana has active double taxation agreements with Barbados, Mozambique, India, Namibia, South Africa, the United Kingdom, Sweden, Mauritius, Zimbabwe, France, Lesotho, Swaziland and the Seychelles. Ratification is pending for double tax agreements with Russia, Belgium, Malawi, Tanzania, Zambia and Luxembourg. Botswana is currently negotiating double taxation agreements with Kenya, Angola, Nigeria, Uganda, China and Japan.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) makes insurance available to U.S. investors in Botswana. In October 2008, OPIC approved a USD 250 million guarantee facility for the Botswana diamond industry. The purpose of the guarantee was to develop a robust lending market to Botswana's emerging cutting and polishing industry.

Botswana is a member of the Multilateral Investment Guarantee Agency (MIGA). MIGA offers investors protection against inconvertibility or transfer of currency, expropriation, breach of contract, and war and civil disturbance.

The Botswana Export Credit Insurance and Guarantee Ltd. (BECI) allows investors to purchase coverage against certain events and losses such as the insolvency and inability of buyers to pay for purchases, unanticipated import restrictions, or the blockage by the buyer's country of foreign exchange transfer.

The U.S. Embassy in Gaborone purchases local currency at the official exchange rate provided

by the Department of State's Financial Service Center. The Bank of Botswana uses a "crawling peg" that is largely tied to the South African Rand, therefore any appreciation or depreciation in the value of the Pula will likely follow the Rand's movement against the dollar. The estimated annual U.S. dollar value of local currency likely to be used by the Mission in 2014 is \$14 million.

16. Labor

Botswana has high unemployment (estimated to be 20%) and a severely constricted worker skills base. Employers can expect to engage in significant training efforts, depending on the industry. Retention of workers and absenteeism can pose problems. In addition, managers often cite workforce productivity as a point of frustration. The lack of trained local citizen professionals is generally resolved by the use of expatriates if they can secure work permits.

The Employment Act of 1992 provides basic guidelines for employment in Botswana. The legislation sets requirements for a minimum wage, length of the workweek, annual and maternity leave, hiring and termination. Standards set by the Act are consistent with international best practice as described by ILO model legislation and guidelines.

Employment-related litigation occurs and is both an example of trust in the court system and a cost to doing business in Botswana. Considerable expense and frustration can be avoided if an employer observes the provisions of the Employment Act, relevant labor regulations and prudence in advance of potential litigation. Before a potential litigant goes to one of eleven labor courts, the parties must attempt mediation through the Department of Labor.

All Botswana citizens, except those working in the Botswana Defense Force (BDF), police, and prisons are permitted to participate in trade unions. The largest unions are comprised of public sector workers. Although workers have a right to strike, those engaged in certain categories of "essential" services, including air traffic control, electricity services, fire services, the Bank of Botswana, health services, and sewage services are not permitted to strike. When the GoB tried to add diamond workers, veterinarians, and teachers to this list in the wake of a public sector strike in 2011, the public sector union sued the government to be taken off the list. The union won the case in April 2014.

17. Foreign-Trade Zones/Free Ports

Botswana currently has no domestic free trade zones or free ports. Botswana approved a Special Economic Zone (SEZ) policy in 2009 and the government is currently drafting legislation to establish a SEZ authority. The government has allocated 426.6 hectares for SEZs to be overseen by the Ministry of Trade and Industry.

18. Foreign Direct Investment Statistics

Foreign direct investment statistics trends show that FDI forms a major portion of capital flows into Botswana, followed by portfolio investments, which, though small, have increased since the founding of the Botswana Stock Exchange.

The following tables show the levels of Foreign Investment in Botswana by Industry and Country. The figures are from the Bank of Botswana 2012 Annual Report, the latest available at the time of printing.

LEVEL OF FOREIGN DIRECT INVESTMENT IN BOTSWANA BY INDUSTRY 2011 (PMILLION)			
Industry	Equity	Non-Equity	Total
Mining	13744	129	13873
Manufacturing	199	79	279

Finance	3228	366	3594
Retail and Wholesale	417	31	448
Electricity, Gas and Water	65	5283	5349
Real Estate and Business Services	2	15	17
Transport, Storage and Communication	193	-	193
Construction	65	-	65
Hospitality	140	-	140
Public Administration	-	19992	19992
Other	359	79	438
Total	18414	25975	44389
Source: Bank of Botswana			

Mining and finance accounted 31% of FDI inflows in 2011. Europe was the principal source of FDI (74%), followed by Asia at 12.5% and Africa at 7.7%. The United States contributed only .5% of FDI.

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:

mixed legal system of civil law influenced by the Roman-Dutch model and also customary and common law

International organization participation:

ACP, AfDB, AU, C, CD, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, NAM, OPCW, SACU, SADC, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

There are no foreign exchange controls in Botswana.

Treaty and non-treaty withholding tax rates

Botswana has signed **22 agreements** (14 DTC and 8 TIEA agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Barbados	DTC	23 Feb 2005	25 Aug 2005	No	No	
China	DTC	11 Apr 2012	not yet in force	Unreviewed	Yes	
Denmark	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
Faroe Islands	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
Finland	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
France	DTC	15 Apr 1999	14 Jun 2003	No	No	
Greenland	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
Guernsey	TIEA	10 May 2013	not yet in force	Unreviewed	Yes	
Hong Kong, China	DTC	13 May 2013	not yet in force	Unreviewed	Yes	
Iceland	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
India	DTC	8 Dec 2006	30 Jan 2008	No	No	
Isle of Man	TIEA	14 Jun 2013	not yet in force	Unreviewed	Yes	
Mauritius	DTC	26 Sep 1995	16 Mar 1996	No	No	
Namibia	DTC	16 Jun 2004	not yet in force	No	No	
Norway	TIEA	20 Feb 2013	not yet in force	Unreviewed	Yes	
Russian Federation	DTC	8 Apr 2003	1 Jan 2010	No	No	
Seychelles	DTC	26 Aug 2004	22 Jun 2005	No	No	
Seychelles	DTC Protocol	12 Mar 2013	not yet in force	Unreviewed	Yes	
South Africa	DTC	7 Aug 2003	20 Apr 2004	No	No	
Sweden	DTC	19 Oct 1982	18 Dec 1992	No	No	
Sweden	DTC Protocol	20 Feb 2013	not yet in force	Unreviewed	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
United Kingdom	DTC	9 Sep 2005	4 Sep 2006	No	Yes	
Zambia	DTC	9 Mar 2013	not yet in force	Unreviewed	Yes	
Zimbabwe	DTC	16 Jun 2004	not yet in force	No	No	

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