

# Gibraltar

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RISK & COMPLIANCE REPORT

DATE: January 2017

<b>Executive Summary - Gibraltar</b>	
<b>Sanctions:</b>	None
<b>FATF list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	Offshore Finance Centre
<b>Medium Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> none</p> <p><b>Industries:</b> tourism, banking and finance, ship repairing, tobacco</p> <p><b>Exports - commodities:</b> (principally reexports) petroleum 51%, manufactured goods</p> <p><b>Imports - commodities:</b> fuels, manufactured goods, foodstuffs</p>	
<p><b>Investment Restrictions:</b> Information unavailable</p>	

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## Section 1 - Background

Strategically important, Gibraltar was reluctantly ceded to Great Britain by Spain in the 1713 Treaty of Utrecht; the British garrison was formally declared a colony in 1830. In a referendum held in 1967, Gibraltarians voted overwhelmingly to remain a British dependency. The subsequent granting of autonomy in 1969 by the UK led to Spain closing the border and severing all communication links. Between 1997 and 2002, the UK and Spain held a series of talks on establishing temporary joint sovereignty over Gibraltar. In response to these talks, the Gibraltar Government called a referendum in late 2002 in which the majority of citizens voted overwhelmingly against any sharing of sovereignty with Spain. Since late 2004, Spain, the UK, and Gibraltar have held tripartite talks with the aim of cooperatively resolving problems that affect the local population, and work continues on cooperation agreements in areas such as taxation and financial services; communications and maritime security; policy, legal and customs services; environmental protection; and education and visa services. Throughout 2009, a dispute over Gibraltar's claim to territorial waters extending out three miles gave rise to periodic non-violent maritime confrontations between Spanish and UK naval patrols. A new noncolonial constitution came into effect in 2007, and the European Court of First Instance recognized Gibraltar's right to regulate its own tax regime in December 2008. The UK retains responsibility for defense, foreign relations, internal security, and financial stability.



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

### FATF status

Gibraltar 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 Gibraltar was undertaken by the Financial Action Task Force (FATF) in 2007. According to that Evaluation, Gibraltar was deemed Compliant for 12 and Largely Compliant for 20 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 3 of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2007):

The Gibraltar authorities have done a good job of implementing improvements to Gibraltar's AML/CFT regime in the main financial sector area of banking to keep abreast of evolving standards in AML/CFT. In other sectors of financial intermediation, the FSC is making considerable progress in enhancing the effectiveness of existing preventative measures. This is in common with many other jurisdictions where the regulation and supervision of the banking sector has been in existence for a longer period of time and where the focus of AML/CFT measures has been concentrated. Though relatively small in absolute terms, Gibraltar's financial centre is important to the overall economy, and Gibraltarians universally place a high priority on maintaining Gibraltar's reputation as a well regulated centre. Gibraltar has welcomed multiple external reviews of its system by the Offshore Group of Banking Supervisors (OGBS), the IMF, and the UK. Authorities take a practical approach to implementing AML/CFT controls, and they have focused much of their resources and attention on providing effective international cooperation.

The principal AML risk to Gibraltar is lodged in its professional sector, which is likely to be involved—wittingly or not—in the layering and integration of proceeds of crime. There is also some risk to Gibraltar at the placement stage, in connection with drug trafficking, migrant smuggling, and organized crime in southern Spain. Most money-laundering cases involving Gibraltar arise out of investigations into international fraud schemes. Traditional organized crime and drug related cases, though important, comprise a minority of criminal investigations that touch Gibraltar's financial centre. The professional sector of lawyers and accountants often introduces their clients to the financial sector institutions in Gibraltar.

6. Gibraltar needs to take a number of steps to move its legal and regulatory regime forward to reflect the revised FATF 40 plus 9 Recommendations. The criminal laws on money

laundering should be consolidated, and powers presently available only in drug-related money-laundering cases should be extended to money-laundering cases involving the proceeds of other crimes. Prosecutors and police should pursue cases as they arise to create a deterrent against misfeasance by professional service providers. Proposed legislation on mutual legal assistance should be enacted. The Financial Service Commission's Anti-Money Laundering Guidance Notes need to be updated, inter alia, to reflect risks associated with terrorist financing, and some of the key provisions currently in the Guidance Notes need to be reflected in law or regulation. Bureaux de change and money transmitters (non-bank) need to be supervised for AML/CFT compliance. Finally, the government needs to conduct risk assessments of those designated non-financial businesses and professions that are not supervised by the FSC or GRA and, as appropriate, extend authority for monitoring for compliance with AML/CFT requirements to them as well.

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

Gibraltar 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:

Gibraltar, an overseas territory of the UK, is part of the EU. A November 2006 referendum resulted in constitutional reforms transferring powers exercised by the UK government to Gibraltar. Gibraltar has an international financial center, which is small internationally but large in comparison to its domestic economy. The financial services sector has strong ties to London, the Crown Dependencies, and other financial centers. The economy of Gibraltar also generates revenue from tourism, the service industry, and cruises.

Bordering Spain and near the north coast of Africa, Gibraltar is adjacent to known drug trafficking and human smuggling routes, but the territory is heavily policed on land and at sea due to the risk of these activities occurring within its borders or territorial waters. Gibraltar is exposed to money launderers located in drug producing centers in Morocco and drug consumption and distribution networks in Spain. With the establishment in southern Spain of organized criminal activities from Eastern Europe, there is potential for launderers to use Gibraltar as a base for money laundering. These risks are mitigated by the small coastline and effective policing. Border controls between Gibraltar and Spain also help deter potential money launderers wishing to use Gibraltar for their activities. Tobacco smuggling over the Gibraltar frontier has been a problem.

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: NO  
KYC covered entities: Banks, mutual savings companies, insurance companies, financial consultants, investment businesses, postal services, exchange bureaus, attorneys, accountants, financial regulatory agencies, unions, casinos, lotteries, charities, car dealerships, yacht brokers, company formation agents, political parties, real estate agents, notaries, and dealers in gold bullion and high-value goods

**REPORTING REQUIREMENTS:**

Number of STRs received and time frame: 521: January 1 – November 9, 2015  
Number of CTRs received and time frame: Not applicable  
STR covered entities: Any legal person, whether or not they conduct financial services

**MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:**

Prosecutions: 0: January 1 – December 2, 2015  
Convictions: 0: January 1 – December 2, 2015

**RECORDS EXCHANGE MECHANISM:**

With U.S.: MLAT: YES Other mechanism: YES  
With other governments/jurisdictions: YES

Through a 2015 resolution of the Council of Europe, Gibraltar formally participates in the mutual evaluation procedures of the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a FATF- style regional body, in November 2015. It has not yet had a mutual evaluation.

**ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

As a part of the EU, Gibraltar is required to transpose all EU legislation. Gibraltar has a comprehensive range of AML/CFT laws. Tax evasion is considered a predicate offense for money laundering. The Proceeds of Crime Act of 2015, which received assent in August 2015 with an effective date of January 28, 2016, consolidates existing legislation on money laundering in Gibraltar and creates a single regime dealing with the recovery of money from drug offenses in the same manner as the recovery of money from other criminal conduct. It also introduces a new procedure enabling the seizure and confiscation of assets arising from any criminal conduct, even where no criminal proceedings are brought against anyone. The Act consolidates and updates procedures for tipping off; customer due diligence, including for the gaming industry; risk assessment; record-keeping; and guidance for dealing with politically exposed persons (PEPs).

In 2014, EU inspectors called on Spanish and UK authorities to clamp down on tobacco smuggling and money laundering over the Gibraltar frontier, citing allegations that illegal activity, including organized crime, is on the rise. According to reports, Gibraltar, with a population of less than 30,000, imported 117 million packets of cigarettes in 2013. Cigarettes in Gibraltar cost approximately half what they do in Spain.

Gibraltar, as a UK overseas territory, cannot sign or ratify international conventions in its own right. Rather, the UK is responsible for Gibraltar's international affairs and may arrange for the ratification of any convention to be extended to Gibraltar. The UN Convention against Transnational Organized Crime was extended to Gibraltar in 2007. The 1988 UN Drug Convention was extended to Gibraltar in 2014. The UN Convention against Corruption and the International Convention for the Suppression of the Financing of Terrorism have not yet been extended to Gibraltar, although the legislation for such extension is in place.

The Financial Services Commission (FSC), a unified regulatory and supervisory authority for financial services, notes the increasing sophistication of money launderers. The FSC should continue to review regulatory and supervisory practices to keep pace with new developments. Gibraltar should continue to fully implement its new Proceeds of Crime Act of 2015.

### **Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):**

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

**Record Large Transactions** - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

**States Party to UN 1988 Convention** - States parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

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

Gibraltar is currently on the EU White list of Equivalent Jurisdictions (Qualified)

### **Local Anti-Money Laundering Equivalence Expectations**

Gibraltar considers the following countries to meet local anti-money laundering equivalence expectations: -

Aruba Austria Belgium Bulgaria Croatia Cyprus Czech Republic Denmark Estonia Finland France Germany Gibraltar Greece Guernsey Hungary Iceland Ireland Isle of Man Italy Jersey Latvia Liechtenstein Lithuania Luxembourg Malta Netherlands Norway Poland Portugal Romania Slovakia Slovenia Spain Sweden Switzerland United Kingdom



**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**

Gibraltar is considered to be an Offshore Financial Centre

**International Sanctions**

None Applicable

**Bribery & Corruption**

<b>Index</b>	<b>Rating (100-Good / 0-Bad)</b>
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	N/A

### Section 3 - Economy

Self-sufficient Gibraltar benefits from an extensive shipping trade, offshore banking, and its position as an international conference center. Tax rates are low to attract foreign investment. The British military presence has been sharply reduced and now contributes about 7% to the local economy, compared with 60% in 1984. The financial sector, tourism (over 11 million visitors in 2012), gaming revenues, shipping services fees, and duties on consumer goods also generate revenue. The financial sector, tourism, and the shipping sector contribute 30%, 30%, and 25%, respectively, of GDP. Telecommunications, e-commerce, and e-gaming account for the remaining 15%. In recent years, Gibraltar has seen major structural change from a public to a private sector economy, but changes in government spending still have a major impact on the level of employment.

#### **Agriculture - products:**

none

#### **Industries:**

tourism, banking and finance, ship repairing, tobacco

#### **Exports - commodities:**

(principally reexports) petroleum 51%, manufactured goods

#### **Imports - commodities:**

fuels, manufactured goods, foodstuffs

### Banking

Most of the banks in Gibraltar are subsidiaries or branches of banks from other European countries, dominated by the United Kingdom with eight subsidiaries/ branches in Gibraltar. There is only one bank which is not foreign bank owned and this has shareholders in the investment business in a major European financial centre. No licensing distinction is made between banks conducting cross-border and local business. The majority of business in the small local market is done by two banking groups. A major portion of cross-border banking business is providing private banking services, mainly asset management, to Swiss based customers and to the expatriate community in Spain and Portugal. This includes the provision of residential mortgages to clients purchasing property in the region.

Banks have a competitive advantage over banks in other small financial centers in being able to provide services throughout the EU using the so-called "passport" arrangements. Although Spanish and Portuguese banks could compete with Gibraltar banks for business of expatriate residents of those countries they appear not to do so.

The FSC is a unified regulatory and supervisory authority for financial services. The FSC supervises the activity of banks, insurance companies, investment firms, collective investment schemes, and trust and company service providers. The FSCO requires that, since Gibraltar is considered as a part of the United Kingdom and, therefore, a constituent of the EU under the U.K. accession treaty, Gibraltar must ensure both that supervision complies with EU Directives, and that regulation and supervision in areas subject to EU supervisory legislative requirements match the standard of regulation and supervision in the United Kingdom.

### Stock Exchange

The Gibraltar Stock Exchange (GibeEX) was established in 2006, and was to begin full operations in 2007. The new stock exchange will have the technical assistance of the Vienna Stock Exchange.

**Section 4 - Government**

**Legal system:**

the laws of the UK, where applicable, apply

**International organization participation:**

ICC (NGOs), Interpol (subbureau), UPU

## Section 5 - Tax

## Exchange control

For further information - <https://www.gibraltar.gov.gi/on-business>

## Treaty and non-treaty withholding tax rates

Gibraltar has signed **27 agreements** (0 DTC and 27 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	
Australia	TIEA	26 Aug 2009	26 Jul 2010	Yes	Yes	
Austria	TIEA	17 Sep 2009	1 May 2010	Yes	Yes	
Belgium	TIEA	16 Dec 2009	not yet in force	Yes	Yes	
Denmark	TIEA	2 Sep 2009	13 Feb 2010	Yes	Yes	
Faroe Islands	TIEA	20 Oct 2009	8 Jun 2011	Unreviewed	Yes	
Finland	TIEA	20 Oct 2009	6 May 2010	Yes	Yes	
France	TIEA	22 Sep 2009	9 Dec 2010	Yes	Yes	
Germany	TIEA	13 Aug 2009	4 Nov 2010	Yes	Yes	
Greece	TIEA	31 Jan 2013	not yet in force	Yes	Yes	
Greenland	TIEA	20 Oct 2009	24 Dec 2009	Unreviewed	Yes	
Guernsey	TIEA	22 Oct 2013	not yet in force	Unreviewed	Yes	
Iceland	TIEA	16 Dec 2009	18 Apr 2012	Yes	Yes	
India	TIEA	1 Feb 2013	11 Mar 2013	Yes	Yes	
Ireland	TIEA	24 Jun 2009	25 May 2010	Yes	Yes	
Italy	TIEA	2 Oct 2012	not yet in force	Yes	Yes	
Malta	TIEA	24 Jan 2012	1 Apr 2012	Yes	Yes	
Mexico	TIEA	29 Nov 2012	not yet in force	Yes	Yes	
Netherlands	TIEA	23 Apr 2010	1 Dec 2011	Yes	Yes	
New Zealand	TIEA	13 Aug 2009	13 May 2011	Yes	Yes	
Norway	TIEA	16 Dec 2009	8 Sep 2010	Yes	Yes	
Poland	TIEA	31 Jan 2013	not yet in force	Yes	Yes	
Portugal	TIEA	14 Oct 2009	24 Apr 2011	Yes	Yes	
South Africa	TIEA	2 Feb 2012	21 Jul 2013	Yes	Yes	
Sweden	TIEA	16 Dec 2009	3 Jul 2010	Yes	Yes	
Turkey	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
United Kingdom	TIEA	27 Aug 2009	15 Dec 2010	Yes	Yes	

<b>Jurisdiction</b>	<b>Type of EOI Arrangement</b>	<b>Date Signed</b>	<b>Date entered into Force</b>	<b>Meets standard</b>	<b>Contains paras 4 and 5</b>
United States	TIEA	31 Mar 2009	22 Dec 2009	Yes	Yes 



<b>Methodology and Sources</b>
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### 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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