

# Jamaica

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RISK & COMPLIANCE REPORT

DATE: March 2017

<b>Executive Summary - Jamaica</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) International Narcotics Control Majors List
<b>Medium Risk Areas:</b>	Non - Compliance with FATF 40 + 9 Recommendations World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> sugarcane, bananas, coffee, citrus, yams, ackees, vegetables; poultry, goats, milk; shellfish</p> <p><b>Industries:</b> tourism, bauxite/alumina, agro-processing, light manufactures, rum, cement, metal, paper, chemical products, telecommunications</p> <p><b>Exports - commodities:</b> alumina, bauxite, sugar, rum, coffee, yams, beverages, chemicals, wearing apparel, mineral fuels</p> <p><b>Exports - partners:</b> US 38.7%, Russia 8.1%, Canada 7.8%, Slovenia 5.6% (2012)</p> <p><b>Imports - commodities:</b> food and other consumer goods, industrial supplies, fuel, parts and accessories of capital goods, machinery and transport equipment, construction materials</p> <p><b>Imports - partners:</b> US 30.1%, Venezuela 14.8%, Trinidad and Tobago 14.4%, China 11.9% (2012)</p>	

**Investment Restrictions:**

The Government of Jamaica (GOJ) has recognized foreign investment as a source of development, and has no policies or regulations that reserve certain sectors exclusively for Jamaicans. Both the governing People's National Party (PNP) and the opposition Jamaica Labor Party (JLP) have committed themselves to attracting foreign direct investment.

However, projects that affect national security, have a negative impact on the environment, or involve sectors such as life insurance, media or mining are subject to regulation and certain restrictions.

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## Section 1 - Background

The island - discovered by Christopher COLUMBUS in 1494 - was settled by the Spanish early in the 16th century. The native Taino, who had inhabited Jamaica for centuries, were gradually exterminated and replaced by African slaves. England seized the island in 1655 and established a plantation economy based on sugar, cocoa, and coffee. The abolition of slavery in 1834 freed a quarter million slaves, many of whom became small farmers. Jamaica gradually increased its independence from Britain. In 1958 it joined other British Caribbean colonies in forming the Federation of the West Indies. Jamaica gained full independence when it withdrew from the Federation in 1962. Deteriorating economic conditions during the 1970s led to recurrent violence as rival gangs affiliated with the major political parties evolved into powerful organized crime networks involved in international drug smuggling and money laundering. Violent crime, drug trafficking, and poverty pose significant challenges to the government today. Nonetheless, many rural and resort areas remain relatively safe and contribute substantially to the economy.



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

### FATF status

Jamaica 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 Jamaica was undertaken by the Financial Action Task Force (FATF) in 2016. According to that Evaluation, Jamaica was deemed Compliant for 6 and Largely Compliant for 10 of the FATF 40 Recommendations.

### Key Findings from latest Mutual Evaluation Report (2016):

Jamaica does not have a completed National Risk Assessment (NRA), but as a result of the National Security Policy (NSP) and subsequent work done by the National Anti-Money Laundering Committee (NAMLC), there is a reasonable level of understanding of ML/TF risk at the country level and mitigation strategies have been put in place to address those risks. However, greater effort needs to be made to involve all stakeholders.

Jamaica cooperates with its international law enforcement counterparts, which has resulted in the prosecution and conviction of persons in some instances. Mutual legal assistance and extradition mechanisms are also used.

In general, there is a high level of cooperation amongst domestic competent authorities, which is facilitated by NAMLC. ML/TF measures are being implemented by the competent authorities some of whom have implemented a risk-based approach.

Jamaica's AML/CFT supervisory regime for financial institutions is adequate. There is a fairly robust licensing regime in place which deters criminals from holding senior management positions or becoming significant shareholders. The risk based approach (RBA) is still in its embryonic stage.

The Bank of Jamaica (BOJ) has not yet revised its AML/CFT Guidance Note to incorporate a risk based approach in line with FATF Recommendations and local legislation. The AML/CFT regime does not extend to the microfinance sector which makes it vulnerable to ML/TF abuse.

The NSP has identified attorneys as facilitators who are considered a high risk of ML/TF. The General Legal Council (GLC) has been established and appears willing to implement a robust system of AML/CFT compliance for attorneys that conduct transactions specified by the FATF Recommendations. However, the current injunction filed by the Jamaica Bar

Association (JBA) against the implementation of the law in this regard increases the vulnerability of the sector to ML/TF abuse.

DNFIs/DNFBPs are currently not subject to the Terrorism Prevention Act (TPA) and Regulations made thereunder.

Jamaica does not have sufficient measures in place to prevent the misuse of legal persons, legal arrangements and micro finance institutions for ML/TF.

The FIU has been able to execute its mandate to assist with the conduct of financial investigations, and the intelligence analyzed and disseminated by the FIU is used by LEAs and other competent authorities as a basis to conduct joint operations, audits and inspections. However, there should be more statistical data on how the analysis and disseminated STRs support the system of financial investigations.

Financial intelligence and other relevant information can be directly accessed in real time by various competent authorities to facilitate investigations of predicate offences, trace assets and identify trends and typologies.

There is insufficient coordination in the Jamaica Resident Magistrate's (RM) Court system with regard to pursuing ML/TF prosecutions. There is a tendency by Clerks not to put these matters forward and settle for the prosecution of the predicate offence or cash forfeiture aspect. Issues such as insufficient training in ML/TF matters, lack of priority of ML/TF cases, incomplete investigations and reticence on the part of the RM to deal with ML/TF matters, which tend to be more complicated, contribute to this situation.

Jamaica has pursued 'taking the profit out of crime' as a national policy. However, there is a need to assess how consistent confiscation and seizures are in keeping with the country's ML/TF risk.

In respect to legal persons, sanctions for ML/TF offences while considered proportionate are not effective or dissuasive.

The mechanisms to deal with terrorism and TF investigations are not effective.

A TF threat assessment of the NPO sector has not been undertaken. The sector is yet to develop a risk based CFT regime.

Jamaica has very limited experience in TF investigations and prosecutions and is yet to secure any convictions for the TF offence.

Jamaica has only recently established a dedicated unit to investigate TF offences in the form of the Counter-Terrorism and Organized Crime Branch (CTOC) within the Jamaica Constabulary Force (JCF), which has affected their level of effectiveness in dealing with TF matters.

Jamaica has commenced initiatives to formulate procedures to address proliferation financing (PF) risks. However, the measures to deal with PF will have to be developed substantially to meet the UN Security Council Resolutions' (UNSCRs) requirements and FATF's Recommendations.

There is a delay in communicating all UN designations to FIs. Additionally, there are delays in the implementation of targeted financial sanctions (TFS) for terrorism and PF.

FIs which are part of financial groups understand ML/TF risks and have implemented preventative measures through the adoption of group compliance programmes, compliance and Internal Audit functions.

### **Risks and General Situation**

The NSP, identified narcotics and weapons trafficking, organised crime (both local and transnational), cybercrime (particularly in relation to lotto scams), fraud, extortion, contract killing, kidnapping, money laundering, facilitators who launder proceeds of crime and corruption within the public sector as Tier 1 threats. Local organised crime groups are prevalent in Jamaica, some of which have a wider reach into the Caribbean and North American region. In recent years the focus on criminal proceeds has shifted to the lotto scams being carried out by various Jamaican nationals on persons in other jurisdictions, primarily the United States of America (USA).

While the NSP did not focus specifically on the identification of ML/TF risk, the Assessors review of the results of the exercise, as well as discussions with the relevant agencies indicate that there is a reasonable understanding at the country level of the ML risk associated with the identified threats and vulnerabilities to Jamaica's national security. The main channels identified in the NSP most vulnerable to ML associated activities include the banking system and the use of DNFI/DNFBPs as facilitators to launder the proceeds of crime.

Additionally, there is a high degree of domestic cooperation among law enforcement agencies, supervisory authorities and other key AML/CFT stakeholders. At present there are minimal efforts in terms of policy and implementation of actions to mitigate the financing of proliferation of weapons of mass destruction. The results of the NRA would help to augment the country's understanding and assessment of ML/TF risks and would enable further prioritising, mitigating policies and actions to be implemented.

Terrorism has been identified in the NSP as a Tier 2 risk (low probability: high impact) and focused mainly on narco-terrorism and tourism related terrorism. The threat of terrorism is considered to be relatively low; however, the NSP did not address Jamaica's TF risk. Accordingly, more emphasis needs to be placed on the identification, assessment and mitigation of potential TF risks.

The abatement of the implementation of the AML/CFT regime against lawyers significantly affects the effectiveness of the AML/CFT system given the recognized risk of this sector and the fact that they perform the functions of Trust and Company Service Providers (TCSPs), which are currently not specifically designated as DNFI/DNFBPs.

There is a licensing regime administered by the BOJ and FSC which is a deterrent to criminals from using financial vehicles as a conduit for ML/TF activities. Fitness and propriety assessments are undertaken. Additionally, there are processes in place e.g. onsite examinations, which facilitate the feedback of deficiencies in AML/CFT policy and mitigation activities and for remedial actions to be taken.

The FSC and BOJ (in the case of the deposit taking institutions (DTIs)) have not administered any sanctions but they continue to work with the financial institutions to remedy deficiencies arising from the onsite examinations. However, the BOJ has revoked cambio licenses where there have been breaches of the Operating Directions and/or the AML legislation.



Supervisors have issued Guidance to the financial sector and are readily available and responsive to provide feedback on AML/CFT issues. The Bank of Jamaica has not yet revised its AML/CFT Guidance Notes to incorporate recent legislative changes which provide for a risk based approach to AML/CFT.

Financial institutions understand AML/CFT risks and have group compliance programmes approved by their board of directors. There is oversight of the compliance function by Audit Committees of the Board. To the extent possible, financial institutions seek to collect beneficial ownership information from customers.

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

**Jamaica is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

### OVERVIEW

Money laundering in Jamaica is primarily related to proceeds from illegal narcotics and fraud schemes and is largely controlled by organized criminal groups. Jamaica continues to experience a large number of financial crimes related to advance fee fraud (lottery scams), corruption, and cybercrime.

Since the Proceeds of Crime Act was instituted in 2007, Jamaica's Financial Investigations Division, which includes the FIU, has used the act to seize approximately \$20 million in properties and other assets believed to be derived from criminal activities. The Proceeds of Crime Act has been increasingly successful but is still not being implemented to its fullest potential due to difficulties prosecuting financial crime and achieving convictions in these cases.

The Government of Jamaica should make a concerted effort to identify money laundering-related activities and deter political and public corruption, while working to ensure that financial institutions are as inclusive as possible. Jamaica also should take steps to provide sufficient resources to the prosecutors and courts and should review and amend, if necessary, its case-processing procedures to enhance its ability to prosecute financial crimes fairly and efficiently. Jamaica should also further develop the capacities of its law enforcement and prosecutorial authorities in order to successfully prosecute financial crime cases.

### VULNERABILITIES AND EXPECTED TYPOLOGIES

Money laundering in Jamaica is primarily related to proceeds from illegal narcotics, financial scams, and extortion and is largely controlled by organized criminal groups. There are dozens of violent Jamaican gangs on the island. Jamaica continues to experience a large number of financial crimes related to cybercrime and advance fee fraud (lottery scams), which primarily target U.S. citizens.

## **KEY AML LAWS AND REGULATIONS**

The Proceeds of Crime Act has been increasingly successful but is still not being used to its fullest potential. The act incorporates the existing provisions of its predecessor legislation and permits the civil forfeiture of assets related to criminal activity. The act has expanded the confiscation powers of the Government of Jamaica and permits, in addition to pre-conviction forfeiture of assets, a post-conviction forfeiture of benefits assessed to have been received by the convicted party within the six years preceding the conviction. The act criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing, and corruption and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. This includes legitimate businesses used to launder drug money. The Financial Investigation Division continues to work with partners in the Jamaica Constabulary Force and others to refer cases which could result in seizure of assets.

In 2014, Jamaica passed the Banking Services Act, which allows for greater information sharing among the Bank of Jamaica, the Financial Services Commission, and foreign counterparts.

Jamaica's financial institutions (including money remitters and cambios) file an inordinately high volume of suspicious transaction reports annually, the vast majority of which are deemed defensive filings.

In 2016, the Financial Investigations Division began using AML software to allow for the online filing of CTRs and STRs by over 300 financial institutions, real estate agents, and other regulated entities. It also allows for the automated analysis of these disclosures and the generation of both tactical and strategic reports to improve the overall effectiveness of combating money laundering and identifying drug trafficking and other criminal activities.

Jamaica is a member of the CFATF, a FATF-style regional body.

## **AML DEFICIENCIES**

Lengthy delays in processing judicial orders hinder the effectiveness of the Jamaican court system. The Jamaican courts and prosecutors have been unable to keep pace with an increase of all charged crimes, including financial crimes. Inefficient methods of practice amongst the investigators, prosecutors, defense bar, and judiciary, combined with corruption and a culture of unaccountability, further exasperates an already overburdened system. Jamaica has chosen to pursue predicate offenses to money laundering, rather than pursuing money laundering as a stand-alone offense, due to the challenge of investigating and prosecuting money laundering cases. This has resulted in the non-prioritization of money laundering investigations and fewer money laundering prosecutions and convictions.

Political and public corruption both generate and facilitate illicit funds and activity.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Although lawyers are included in 2014 amendments to the AML regulations, the Jamaican Bar Association filed an injunction to exclude them from AML requirements. That action is still pending.

In 2015, there were twenty-two prosecutions and four convictions related to money laundering, bringing the tally to ninety-seven such prosecutions and ten convictions in the last six years.

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

According to the US State Department, Jamaica conforms with regard to all government legislation required to combat money laundering

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

Jamaica 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**

Jamaica is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2017 (introduction):

#### Introduction

Jamaica remains the largest Caribbean supplier of marijuana to the United States and local Caribbean islands. Although cocaine and synthetic drugs are not produced locally, Jamaica is a transit point for drugs trafficked from South America to North America and other international markets. In 2016, drug production and trafficking were enabled and accompanied by organized crime, domestic and international gang activity, and police and government corruption. Illicit drugs are also a means of exchange for illegally-trafficked firearms entering the country, exacerbating Jamaica's security situation.

Drugs flow from and through Jamaica by maritime conveyance, air freight, human couriers, and private aircraft. Marijuana and cocaine are trafficked from and through Jamaica into other Caribbean nations, the United States, Canada, and the United Kingdom. Jamaica is a transit point for cocaine moving from Central America to the United States, and some drug trafficking organizations exchange Jamaican marijuana for cocaine.

Factors that contribute to drug trafficking include the country's convenient geographic position as a waypoint for illicit drugs trafficked from Latin America; its lengthy, rugged, and difficult-to-patrol coastline; a high volume of tourist travel and airline traffic; its status as a major transshipment hub for maritime containerized cargo; inadequate educational and employment opportunities for at-risk youth who engage in crime; and a struggling economy that encourages marijuana cultivation in rural areas.

The government and law enforcement authorities are committed to combating narcotics and illicit trafficking. However, their efforts were only moderately effective in 2016 because of insufficient resources, corruption, an inefficient criminal justice system, and the inability of lawmakers to adopt meaningful legislation to combat corruption. In 2015, legislation to decriminalize the possession and use of small amounts of marijuana for personal use (including religious purposes) went into effect.

#### Conclusion

Success stories from 2016 – all with U.S. and international support – have included the JCF Anti-Corruption Branch, which made steady progress in removing corrupt and unethical police officers, as well as the Major Organized Crime and Anti-Corruption Agency which continued its success in reducing Jamaica lottery scam operations that targeted retirees and the elderly in the United States. The Financial Investigation Division of the Ministry of Finance further increased its ability to curb money laundering and seize criminally-acquired assets. The JCF enhanced its ability to trace seized firearms, and criminal prosecutors received additional training throughout the island.

The momentum of progress gained within Jamaica's law enforcement agencies, however, is being limited by a chronic inability of prosecutors and the courts to keep pace and secure

prompt convictions. Jamaica must therefore continue to implement efforts to reform and strengthen its criminal court system.

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

Jamaica 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.

Jamaica is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labor. Jamaican children subjected to sex trafficking in Jamaica's sex trade remains a serious problem. Sex trafficking of children and adults occurs on streets and in night clubs, bars, and private homes throughout Jamaica, including in resort towns. Traffickers in massage parlors in Jamaica lure women into prostitution under the false pretense of employment as massage therapists and then withhold their wages and restrict their movement. People living in Jamaica's poverty-stricken garrison communities, territories ruled by criminal "dons" effectively outside of the government's control, are especially at risk. NGOs express concern that children from poor families sent to wealthier families or local "dons" with the intent of a chance at a better life are highly vulnerable to prostitution and forced labor, including domestic servitude. Other at-risk children include those working in the informal sector, such as on farms or in street vending, begging, markets, and shops. An alarmingly high number of children are reported missing in Jamaica; some of these children are likely subjected to forced labor or sex trafficking. Foreign nationals are subjected to forced labor in Jamaica and aboard foreign-flagged fishing vessels operating in Jamaican waters. Numerous sources report that Jamaican citizens have been subjected to sex trafficking or forced labor abroad, including throughout the Caribbean, Canada, the United States, and the United Kingdom.

The Government of Jamaica does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In 2013, the government implemented amendments to strengthen Jamaica's anti-trafficking law. Despite these efforts, the government did not demonstrate evidence of overall increasing efforts to address human trafficking over the previous reporting period; therefore, Jamaica is placed on Tier 2 Watch List. For a fifth consecutive year, the government did not convict trafficking offenders or officials complicit in human trafficking and took insufficient action to address reports of official complicity. The government identified few Jamaican trafficking victims and failed to provide many of them with adequate assistance.

### **US State Dept Terrorism Report 2010**

Jamaican-U.S. counterterrorism cooperation included the Container Security Initiative and law enforcement cooperation. Jamaica also worked closely with the immigration and security agencies of countries such as Canada and the United Kingdom, both of which have sizeable Jamaican émigré communities and serve as transit points for travelers to Jamaica from many world regions.

Jamaica is a member of the Caribbean Financial Action Task Force. Jamaica has supported implementation of UNSCRs 1267 and 1373.

Jamaica is a member of the regional organizations Caribbean Community (CARICOM) and the OAS. Within the OAS, Jamaica is an active member of the Inter-American Committee Against Terrorism. Jamaica also actively supports efforts to improve regional security through the Caribbean Basin Security Initiative. The CARICOM Council of Ministers of National Security meets regularly to discuss regional threats to security, including terrorism. Jamaica's Minister of National Security, Dwight Nelson, hosted the most recent such meeting on December 1, 2010 in Montego Bay.

## International Sanctions

None applicable

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	39
World Governance Indicator – Control of Corruption	48

**Corruption and Government Transparency - Report by US State Dept**

Jamaica has a Corruption Prevention Act (CPA), which established a Corruption Prevention Commission in 2003 to, among other things: (1) receive, examine and document the statutory declarations of public sector workers; (2) receive and investigate any complaint regarding an act of corruption; and (3) conduct investigation into acts of corruption, if satisfied there are reasonable grounds to do so. To date there has been no enforcement, as the commission lacks the capacity to enforce the filing of declarations. Reports suggest that non-compliance is running at over 30 percent. However, the commission will be working with the Director of Public Prosecution to have enforcement measures implemented. The Embassy is not aware of any disproportionate application of corruption measures against foreign investors, but some members of the private sector perceive that the law is not applied impartially. During a 2010 panel discussion on governance, a Government of Jamaica Senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

Jamaica has ratified the Inter-American Convention Against Corruption. In 2008, Jamaica became party to the United Nations Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations. Prosecutors participate in regional anti-corruption conferences. The Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment. Transparency International (TI) performed a formal study of corruption in 2003, identifying widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, Jamaica's score of 3.0 out of 10 in 2009, moved to 3.3 in 2010, and remained at 3.3 during 2011. Jamaica's score moved up to 38 out of 100 in 2012 and 2013, ranking Jamaica at 83 of the 175 surveyed globally.

Corruption may well be the single greatest concern among Jamaicans, many of whom believe it is one of the root causes of the high crime rate. According to the January 6, 2013 edition of *the Gleaner*, in 2012 there were 54 police officers who were arrested for alleged acts of corruption. In recent times only a few politicians have been arrested on charges of corruption. One politician was being tried before the Judicial Review Court and experiencing various delays, he was exonerated after Resident Magistrate upheld a "no case submission". In another case, Contractor General Dirk Harrison also referred a junior government minister and a mayor to the Director of Public Prosecutions (DPP) for the illegal construction of shops at a municipal market. The DPP found no evidence to suggest that the minister was guilty of



conspiracy to defraud the municipality, However the DPP found that there was “clear evidentiary material to institute criminal proceeding” against the mayor for attempting to mislead the Contractor General, contrary to section 29 (a) of the Contractor General Act. There are concerns that the government lacks the political will to root out corruption but some positive efforts, as demonstrated in the above cases, have occurred.

Under the Corruption Prevention Act (CPA), it is an offense to solicit or accept a bribe. Public servants can be imprisoned for up to ten years and fined as much as JD\$ ten million if found guilty of engaging in acts of bribery. Individuals and companies are also criminally liable if they bribe foreign public officials and can be prosecuted and face the same penalties. The legislation covers public officials who meet the JD\$2 million salary threshold and those working in sensitive positions such as police and military officers. However, it is well known that a number of public officials have been delinquent in complying with mandatory filing. The creation of the CPA could be viewed as evidence that GOJ officials are taking anti-corruption efforts seriously. However, financial constraints have crippled the commission's ability to fully execute its mandate of enforcing asset declarations. In 2007, The GOJ passed into law the Proceeds of Crime Act (POCA), a powerful legal tool that allows for both criminal and civil forfeiture and criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing and corruption, and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. However, the GOJ has been very slow to use this law. More active enforcement of the POCA by the GOJ would certainly strengthen anti-corruption efforts and send a signal that the country is serious about illicit activity. Within Jamaica's Parliament, legislation is pending for a Special Prosecutor's Bill to target corruption. In 2011, a report written by the Contractor General about corruption in the Jamaican Development Infrastructure Program, led to the resignation of Mike Henry, then-Minister of Transportation & Works.

The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, then Prime Minister Patterson tabled a code of conduct in Parliament for government ministers. The 49-point code covers such issues as conflict of interest and integrity in the conduct of public and private business. The agency responsible for combating corruption is the Commission for the Prevention of Corruption. Other “watchdog” organizations operating in Jamaica include Transparency International, Jamaicans for Justice, Families Against State Terrorism and the Farquharson Institute of Public Affairs.

## Section 3 - Economy

The Jamaican economy is heavily dependent on services, which accounts for nearly 80% of GDP. The country continues to derive most of its foreign exchange from tourism, remittances, and bauxite/alumina. Remittances and tourism each account for 30% of GDP, while bauxite/alumina exports make up roughly 5% of GDP. The bauxite/alumina sector was most affected by the global downturn while the tourism industry and remittance flow remained resilient. Jamaica's economy faces many challenges to growth: high crime and corruption, large-scale unemployment and underemployment, and a debt-to-GDP ratio of about 140%. The attendant debt servicing cost consumes a large portion of the government's budget, limiting its ability to fund the critical infrastructure and social programs required to drive growth. Jamaica's economic growth rate in the recent past has been stagnant, averaging less than 1% per year for over 20 years. Jamaica's onerous public debt burden is largely the result of government bailouts to ailing sectors of the economy, most notably to the financial sector. In early 2010, the Jamaican Government initiated the Jamaica Debt Exchange to retire high-priced domestic bonds and reduce annual debt servicing. Despite these efforts, debt continued to be a serious concern, forcing the government to negotiate and sign a new IMF agreement in May 2013 to gain access to approximately \$1 billion additional funds. As a precursor, the government instigated a second National Debt Exchange in 2012. The IMF deal requires the government to reform its tax system, eliminate discretionary tax exemptions and waivers, and achieve an annual surplus of 7.5%, excluding debt payments, to reduce its debt below 100% of GDP by 2020. The SIMPSON-MILLER administration now faces the difficult prospect of having to achieve fiscal discipline to maintain debt payments while simultaneously attacking a serious crime problem that is hampering economic growth. High unemployment exacerbates the crime problem, including gang violence that is fueled by the drug trade. The IMF approved a four-year \$932 million Extended Fund Facility arrangement for Jamaica in May 2013.

### **Agriculture - products:**

sugarcane, bananas, coffee, citrus, yams, ackees, vegetables; poultry, goats, milk; shellfish

### **Industries:**

tourism, bauxite/alumina, agro-processing, light manufactures, rum, cement, metal, paper, chemical products, telecommunications

### **Exports - commodities:**

alumina, bauxite, sugar, rum, coffee, yams, beverages, chemicals, wearing apparel, mineral fuels

### **Exports - partners:**

US 38.7%, Russia 8.1%, Canada 7.8%, Slovenia 5.6% (2012)

### **Imports - commodities:**

food and other consumer goods, industrial supplies, fuel, parts and accessories of capital goods, machinery and transport equipment, construction materials

### **Imports - partners:**

US 30.1%, Venezuela 14.8%, Trinidad and Tobago 14.4%, China 11.9% (2012)

## **Banking**

Financial Institutions in Jamaica provide a full range of services and solutions for individual and business/corporate banking. These include current accounts, savings accounts, loans, credit cards and Internet banking (most institutions). Most credit cards issued by a local bank are for use in Jamaica only, but international credit cards have grown in importance. At the end of 2006 there were 133 financial institutions of which six were commercial banks, four were building societies, 17 were insurance companies, 50 were Securities Dealers, 47 were Credit Unions, four were Development Banks, and the rest were institutions registered under the Financial Institutions Act. These institutions provide services ranging from retail and corporate services to development and export financing. The Bank of Jamaica and the Financial Services Commission regulate the financial system. Following the meltdown of the financial sector in the 1990s, the GOJ increased the prudential and supervisory powers of the BOJ by passing the Financial Institutions Act and the Banking Act. Amendments were also made to the regulations governing Building Societies. A Deposit Insurance Corporation (JDIC) and a Financial Services Commission (FSC) were introduced to protect depositors and regulate institutions and brokers outside the scope of the Central Bank's oversight. These adjustments have brought the regulatory standards governing the financial sector up to international standards and should therefore aid, rather than impede, businesses.

## **Stock Exchange**

The Jamaica Stock Exchange is the principal stock exchange of Jamaica. It was founded in 1968 in Kingston, Jamaica.

### Executive Summary

The Government of Jamaica (GoJ) has committed itself to attracting foreign direct investment to drive economic growth. Jamaica signed a US\$932 million Extended Fund Facility with the International Monetary Fund in May 2013 to, in part, effect significant structural reforms to encourage investment. For example, the government eliminated discretionary tax exemptions that were non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003. The WTO granted Jamaica an extension to revise its incentives by the end of 2013. To satisfy this obligation, the GoJ passed the Omnibus legislation, which took effect on January 1, 2014, that codified tax benefits for all investors, simplified the income tax code, and broadened the tax base. Although Jamaica scores well on the World Bank's Doing Business Report in terms of selling property and starting a business, the bureaucracy remains a deterrent to investment, with the country underperforming in the areas of paying taxes and getting electricity. Jamaica's ranking fell from 91<sup>st</sup> in 2013 to 94<sup>th</sup> in the 2014 World Bank Doing Business Report.

Jamaica received US\$564 million in foreign direct investments during 2012, up from US\$218.2 million in 2011. The country recorded thirteen straight quarters of economic decline between 2008 and 2010. GDP grew by 1.3% in 2011, but declined again in 2012 due to the fiscal consolidation efforts associated with the ambitious economic reform program. With the implementation of the IMF agreement and several positive IMF quarterly reviews, Jamaica recorded 0.5% growth in the last quarter of 2013 and an overall 0.2% growth for the year. Positive growth is expected to continue in 2014 and the rate could accelerate in the medium term if one or more of the country's planned mega projects come to fruition.

Jamaica has no restrictions on holding funds or on transferring funds associated with an investment, as the country liberalized its foreign exchange market in 1991. Property rights are protected under Section 18 of the Jamaican Constitution. While expropriation of land may occur under the Land Acquisition Act, compensation must take place on the basis of market value. Disputes between enterprises are handled in the local courts, but foreign investors can refer cases to the International Center for Settlement of Investment Disputes (ICSID). There have been cases of trademark infringements in which U.S. firms took action and were granted restitution in the local courts.

While the Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment, corruption remains a major concern in Jamaica. Although the country has enacted a Corruption Prevention Act and is signatory to a number of international conventions, there have been no major convictions. Jamaica ranks 83 out of the 175 countries surveyed globally on the Transparency International's Perception Index.

#### **1. Openness to, and restrictions upon, foreign investment**

The Government of Jamaica (GOJ) recognizes foreign investment as a driver of economic development and therefore does not apply any policies or regulations that reserve certain sectors exclusively for Jamaicans. Both the governing People's National Party (PNP) and the opposition Jamaica Labor Party (JLP) have committed themselves to attracting foreign direct investment (FDI). However, bureaucratic red tape is still recognized as a major

hindrance to conducting business in Jamaica. Bureaucracy continues to pose challenges for both local and foreign investors, as the process for environmental and land use permits and other legal requirements are often cumbersome. During her inaugural speech on January 12, 2012, Prime Minister Portia Simpson Miller acknowledged that the GOJ must “make it easier to do business in Jamaica.” Numerous measures that once inhibited foreign investment, such as the Foreign Exchange Control Act and a list of sector areas solely reserved for local investment, have been eliminated for decades. Thus, Jamaica does not have legal impediments to prevent FDI and applies the principle of national treatment to foreign investors.

With these legal impediments removed, attention turned to reducing bureaucratic red tape, including the processing and approval times for investment-related applications. As one example, the United States Agency for International Development (USAID) began their Promote, Renew, Invigorate, Develop and Energize (PRIDE) Jamaica project in 2009, which supports GOJ efforts to reduce barriers to trade and investment. PRIDE Jamaica works with stakeholders in the private and public sectors to promote free market economic policies, streamlining government regulations, processes and practices to improve Jamaica’s competitive position in the international market as a desirable place to do business. Working with public-private partnerships and other donors, PRIDE Jamaica leverages these resources to establish stakeholder support and maximize project impact.

In the World Bank Doing Business Report, Jamaica slid from 91st in 2013 to 94th in 2014. Jamaica ranks lower than regional countries such as St. Lucia (64) and Trinidad & Tobago (66), but ahead of St. Kitts and Nevis (101), and the Dominican Republic (117). Jamaica ranks well among its regional peers in areas such as starting a business and registering property, which includes procedures necessary to purchase property from another business and transfer the property title to the buyer. In comparison with its peers, Jamaica underperformed in the areas of paying taxes (on average it takes medium sized businesses 368 hours to prepare, file and pay taxes), enforcing contracts (cost of enforcement for commercial disputes is on average 45.6% of the claim, with an average resolution time of 655 days), and getting electricity (at present a single company has monopoly control of Jamaica’s electricity grid).

Jamaica maintained its position as one of the easiest countries to start a business with a ranking of 23. Recent process improvements include changes that allow the Companies Office of Jamaica to stamp a company’s articles of incorporation at registration. Jamaica improved its credit information system by creating a legal and regulatory framework for private credit bureaus. One credit bureau was issued a license in 2012 and started operations in 2013, while a second institution was granted a license in 2013 but has yet to commence operations. The country also made paying taxes less costly for companies by reducing the corporate income tax rate—though it also increased vehicle and asset taxes. The Government of Jamaica (GoJ) increased the transfer tax and stamp duty applied to property transfers. As part of a four-year US\$932 million Extended Fund Facility it signed with the International Monetary Fund (IMF) in May 2013, the GOJ frontloaded an ambitious legislative agenda to undertake significant structural reforms to its economy. Between May and December 2013, Jamaica’s Parliament passed 11 pieces of legislation to improve the business environment and support economic growth through a simplified tax system and broadened tax base.

The *Companies Act* and the *Securities Act* govern acquisitions, mergers and takeovers for publicly traded companies. In 1996, the *Securities Act* was revised to bring it in line with international regulations. The takeover code was redesigned to ensure the integrity of the securities market while protecting minority shareholders. Jamaica's legal system is based on English common law principles, and rules covering the enforceability of contracts are based thereupon. The Jamaican judicial system therefore recognizes and upholds the sanctity of contracts; however, the legal process can be lengthy and court cases can take years or even decades to resolve. The Embassy is not aware of any economic or industrial policy that has discriminatory effects on foreign investors.

Foreign investors are generally granted national or Most Favored Nation treatment, subject to the rules of their Bilateral Investment Treaties (BITs). There are no screening mechanisms for foreign investments, but if investors apply for government incentives, they could be required to meet some basic prerequisites, and due diligence may be carried out by the approving agency. This process is not discriminatory and is not intended to impede investment. Jamaica has also undertaken a comprehensive program of trade and financial liberalization, and no sector remains closed to foreign investment. However, projects that affect national security, have a negative impact on the environment, or involve sectors such as life insurance, media or mining are subject to regulation and certain restrictions. Likewise, the Public Health (Tobacco Control) Regulations came into effect in July 2013, regulating the manufacture, distribution, marketing and use of tobacco and tobacco products. These regulations bring Jamaica into compliance with the World Health Organization's Framework Convention on Tobacco Control, which the country ratified in July 2005.

Jamaica's privatization program is open to participation by foreign investors, except for assets that are on the restricted list due to national security concerns. The National Investment Bank, which administers privatization, is mandated to ensure that the process is fair and transparent. However, in some privatization transactions, the participation of local investors may lead to advantages in the scoring of proposals. When large entities are being privatized, advertisements are placed in international newspapers such as the *Financial Times*, *New York Times* and *Wall Street Journal* to attract foreign investors. An information memorandum accompanies privatization proposals and includes the specific requirements under which bidders are allowed to participate and the criteria by which proposals will be evaluated. Foreign investors have won most of the privatization bids in the last five years. The government is currently reviewing some of the remaining parastatals with an eye to divest, moving to liquidate state holdings in such firms as Clarendon Alumina Partners, Kingston Container Terminal and Norman Manley International Airport in Kingston.

The country is party to both multilateral and bilateral treaties, which provide for non-discrimination. Local laws do not distinguish between local and foreign investors. The Embassy is not aware of any discrimination against foreign investors at the time of initial investment or after the investment is made. However, under the *Jamaican Companies Act*, investors are required either to establish a local company or to register a branch office of a foreign-owned enterprise. Branches of companies incorporated abroad must also register with the Registrar of Companies if they intend to operate in Jamaica. There are no laws or regulations requiring firms to adopt articles of incorporation or association, which limit or prohibit foreign investment, participation or control. The Embassy is not aware of any other ways host country private firms could restrict foreign investment.

Foreign direct investment (FDI) inward flows to Jamaica were US\$564 million in 2012, up from US\$218.2 million in 2011. Jamaica registered thirteen straight quarters of economic decline between 2008 and 2010. The decline paused in 2011, when the economy grew by 1.3%, before declining again in 2012 on the back of an ambitious economic reform program. GDP recovered in 2013, registering a 0.2% increase, as both the mining and tourism showed positive trends. Growth could accelerate in the medium term if one more of the country's planned mega projects come to fruition. Chief among these are various road and housing construction projects, a proposed logistics hub that would take advantage of an expanded Panama Canal, and a US\$1.5 billion harbor and port facility to be constructed by the China Harbour Engineering Company (CHEC) currently being negotiated with the GoJ. The GoJ has also received five bids for Integrated Resort Development (IRD) projects. These mega-developments, regulated by the Casino Gaming Regulations 2012, require investors to develop 1,000 hotel rooms and demonstrate plans for another 1,000 in order to receive permission to establish gambling facilities. Total investment must be at least US\$1.2 billion. The GoJ also anticipates robust agriculture output following its decision to establish 9 Agro Parks to grow exports and replace part of the country's US\$900 million imported food bill.

With the onset of the 2008 global economic crisis, there was a significant slowdown in some of Jamaica's critical foreign exchange earners. Growth in the bauxite sector slowed with three of four alumina plants shutting down operations. One of those plants has reopened but operates below full capacity. The construction boom of 2003 to 2007, which brought in over US\$1 billion in FDI to the hotel sector, waned. A major cruise ship project in the town of Falmouth accepted its first ship in February 2011 and cruise arrivals have increased accordingly. Chinese investment and project financing in Jamaica have increased through acquisitions in Jamaica's sugar industry, as well as participation in large-scale construction projects such as the new Convention Center in Montego Bay, two cricket stadiums, and improvements to the road and causeway linking Kingston to its international airport.

The introduction of competition in the telecommunications sector attracted three mobile providers and multiple internet service providers. By 2012, only 2 mobile providers were operative, with Digicel controlling over 80% of the market. Both Digicel and LIME (a subsidiary of Cable and Wireless) renewed their spectrum and telecommunications licenses for US\$85 million and US\$30 million, respectively. The GoJ are also in the process of auctioning another three telecoms licenses. Highway 2000, Jamaica's first toll road, was constructed by French company Bouygues under a build, operate, and transfer (BOT) model. Two segments of the project, costing over US\$500 million, are complete. A middle leg between Kingston and the resort area of Ocho Rios, scheduled for completion by the end of 2010 and initially budgeted to cost US\$100 million, remains incomplete and over budget due to concerns about geologic stability. In late 2013, China Harbour Engineering Company (CHEC) took over the construction of this roadway and announced that it would be completed by June 2014.

As part of its US\$610-million road infrastructure project, CHEC will design, build, operate and finance two additional legs of the 67 kilometer toll road required to connect Kingston and Ocho Rios. CHEC will reimburse the GoJ the US\$120 million it expended on the project, while the Chinese outfit will receive 1,200 acres of lands along the toll road for housing, commercial development and hotels. Chinese company Gao Zhen Real Estate & Development Co. Ltd, in partnership with the Housing Agency of Jamaica, will construct approximately 30,000 affordable housing units across the island, creating employment for approximately 1,500 people over the next five years. The GoJ has also signed a Memorandum of Understanding (MoU) with CHEC to do a feasibility study for a dam

expected to store up to 1,900 million gallons of water and supply 80 million gallons per day. The country's largest water facility currently stores 800 million gallons, but requires de-silting.

## **2. Conversion and Transfer Policies**

Jamaica has no restrictions on holding funds or on transferring funds associated with an investment, as the country liberalized its foreign exchange market in 1991. However, foreign exchange transactions must be conducted through authorized foreign exchange dealers, cambios, and bureau de change at market-determined rates. Foreign exchange is generally available, but companies tend to acquire large amounts of foreign exchange over a three to four day period, so as not to disturb currency markets. There are currently no plans to change the policies affecting investment remittances and there is no delay period currently in effect for repatriating investment returns. There is no legal parallel market (tiered system) for foreign exchange and there are no limitations on the inflow or outflow of funds for any transaction. U.S. companies indicate no problems or delays in repatriating investments.

## **3. Expropriation and Compensation**

Property rights are protected under Section 18 of the Jamaican Constitution. Expropriation of land may take place under the Land Acquisition Act, which provides for compensation on the basis of market value. Expropriation can take place before compensation is paid, but interest for the period between the expropriation and the compensation settlement must be paid. According to the law, the purpose of any expropriation must be transparent, and compensation for expropriated property must be adequate. The U.S. Embassy has assisted investors who had property expropriated primarily in the 1970's, but decades later continue to seek restitution. A payment in one case was issued as recently as 2010. If informal negotiation on compensation fails, the investor has recourse in the courts, but this process can take years. Jamaica has signed bilateral agreements for the reciprocal promotion and protection of investments with a number of countries, including the United States. The U.S. Embassy in Kingston is not aware of any ongoing litigation between the Jamaican government and any private individual or company based on expropriation or on compensation for expropriation, but there were cases involving commercial disputes between government-owned enterprises and private investors. There are currently no laws that force local ownership.

## **4. Dispute Settlement**

Disputes between enterprises are handled in the local courts, but foreign investors can refer cases to the International Center for Settlement of Investment Disputes (ICSID). There have been cases of trademark infringements in which U.S. firms took action and were granted restitution in the local courts. The Jamaican Constitution provides for an independent judiciary with a three-tier court structure. Claims may be brought before the Magistrates or Supreme Court. Appeals on decisions made in these courts can be taken before the Court of Appeal and then to the Judicial Committee of the Privy Council in the United Kingdom. The PNP government that took office in January 2012 has stated its intention to replace the Privy Council with the Caribbean Court of Justice (CCJ) as Jamaica's final appeals body. The CCJ would hear appeals in civil and criminal matters from common law courts within CARICOM member states such as Jamaica. Currently no proposal is being pursued and replacing the Privy Council with the CCJ may require a national referendum. Jamaica has formal means for enforcing property and contractual rights through: (1) The Judgment and Awards (Reciprocal Enforcement) Act; (2) The Judgment (Foreign) (Reciprocal Enforcement) Act; (3)



The Arbitration (Recognition and Enforcement of Foreign Awards) Act; and, (4) The Maintenance Orders (Facilities for Enforcement) Act. Under these acts, judgments of foreign courts are accepted where there is a reciprocal enforcement of judgment treaty with the relevant foreign state.

A number of disputes involving foreign investors and the government on one hand and foreign investors and a local association on the other arose in 2005. A major dispute, which is yet to be resolved, involves the implementation of a levy by the government on incoming telephone calls for a Universal Access Fund to finance computers and other information-related activities in Jamaican schools. However, U.S. long-distance telephone companies have protested this levy and requested that the Federal Communications Commission persuade Jamaica to desist from collecting the fees. In the broadcasting space, Jamaica maintains a statutory licensing regime for the retransmission of copyrighted television programming but has not consistently enforced the payment of statutory royalties to rights holders.

The *Bankruptcy Act of 1880* regulates personal insolvency, while the *Companies Act of 2004*, coming under the provisions of the United Kingdom Companies Act of 1948, oversees corporate insolvency. Other statutes such as the *Bills of Exchange* and the *Sale of Goods Acts* deal with commercial matters. Efforts are currently underway to pass modern insolvency legislation as part of the country's growth-enhancing structural reforms. Extensive common law principles exist in writing and are consistently applied. Under the existing bankruptcy laws, creditors can petition for an order against an individual or a winding up order against the company and will be entitled to share in the assets of the bankrupt on a pro-rata basis, in line after certain specified preferential creditors such as redundant employees. The claimant has the option of settling a claim in the currency in which the debt or obligation was incurred or in local currency.

Jamaica, a signatory to the International Center for Settlement of Disputes (ICSID) since 1965, accepts international arbitration of investment disputes between Jamaicans and foreign investors. Local courts recognize foreign arbitral awards. International arbitration is also accepted as a means for settling investment disputes between private parties. The CCJ fulfills its role as an international tribunal for disputes within the CARICOM Single Market and Economy. Among the formal entities facilitating arbitration in Jamaica are the Dispute Resolution Foundation and the Caribbean Branch of the Chartered Institute of Arbitrators. If a foreign investor's country has a Bilateral Investment Treaty (BIT) with Jamaica, as the U.S. does, then the rules of this treaty would apply. Other foreign investors are given national treatment and civil procedures apply.

## **5. Performance Requirements and Incentives**

Jamaica is a signatory to the World Trade Organization Agreement and is in compliance with most Uruguay Round obligations, including the TRIMS Obligations. No performance requirements are imposed as a condition for investing in Jamaica. Prior to 2013 the government offered a number of incentives to attract investments in targeted sectors and industries, particularly those generating foreign exchange and increasing employment. However, most incentives were non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003. Jamaica was granted an extension by the WTO to revise its incentives by the end of 2013. To satisfy this obligation, the GoJ passed a suite of legislation referred to as "the Omnibus legislation" that took effect on January 1, 2014. The Omnibus legislation fulfills its WTO mandate and addresses

deficiencies in the tax incentives regime. The Fiscal Incentives (Miscellaneous Provisions) Act 2013 repeals most of the legacy incentive legislation and provides flexibility for new tax incentives to only be granted in relation to the bauxite sector, export free zone activities, the relocation of corporate headquarters, and Junior Stock Exchange listings. The Act also outlines the arrangement for transitioning to the new regime. Continuing beneficiaries may elect to keep old incentives such as relief from income tax and customs duty as well as zero-rated GCT status for imports.

The new omnibus fiscal incentives framework provides varying levels of tax relief with respect to customs duties, additional stamp duties and corporate income tax. These benefits are granted under the following four areas:

1. *The Fiscal Incentives Act*: Targets small and medium size businesses and reduces the effective corporate income tax rate by applying: (1) an Employment Tax Credit (ETC) at a maximum value of 30%; and, (2) a Capital Allowance applicable to a broadened definition of industrial buildings;
2. *The Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act*: Targets large-scale projects and/or pioneering projects and provides for an improved and more attractive rate for the ETC. Projects will be designated either as large-scale or pioneer, based on a decision by Parliament and subject to an Economic Impact Assessment.
3. *Revised Customs Tariff*: Provides for the duty free importation of capital equipment and raw material for the productive sectors.
4. *Revised Stamp Duty Act*: Provides exemption from additional stamp duty on raw materials and non-consumer goods for the manufacturing sectors.

*Jamaica Free Zone Act*: Under this revised Act, companies granted free zone status are permitted to import items free of customs duty, value-added tax and other port related taxes and charges for an unspecified period. Profits earned are also free from income tax for an unspecified period. To become eligible for these benefits, firms are required to export at least 85% of the goods and services produced within the free zone. This Act is slated to be repealed in 2015 at which time a new fiscal incentive arrangement will be put in place.

*Urban Renewal Act*: Companies that undertake development within Special Development Areas can benefit from Urban Renewal Bonds, a 33.3% investment tax credit, tax free rental income and the exemption from transfer tax and stamp duties on the 'improved' value of the property.

*Income Tax Act (Junior Stock Exchange)*: As of January 1, 2014, companies listed on the junior stock exchange will not be required to pay income tax in the first five years, reduced from ten years. This benefit will expire altogether on December 31, 2016.

*Bauxite and Alumina Act*: Under this act, bauxite/alumina producers are allowed to import all productive inputs free of import duties, VAT and other port related taxes and charges.

*The Foreign Sales Corporation Act*: This act provides exemption from income tax for five years for qualified income arising from foreign trade. U.S. law through the Tax Information Exchange Agreement (TIEA) reinforces this incentive.

A number of development banks provide concessionary financing for projects. The Jamaican National EXIM Bank provides concessionary interest rate loans for trade financing, while the Development Bank of Jamaica offers reduced lending rates to the productive sectors. Special tax incentives exist for companies that register on the junior stock market.

Foreign investors and their investments are generally granted national treatment status, subject to the rules outlined in the relevant Bilateral Investment Treaty. In essence, Jamaica has no performance requirements, except for companies with Free Zone status, which must export at least 85 percent of their output. Foreign firms are allowed to participate in GOJ-financed or subsidized R&D programs on a national treatment basis. Work permits are granted by the Ministry of Labor for a specified period, but are subject to the individual obtaining a work visa from the Jamaican Consulate located in or near their home state. Since 2005, foreign nationals who conduct business on a short-term basis do not require a business visa if they will be in Jamaica for a period not exceeding thirty days. Foreign nationals will need a business visa to enter Jamaica if they are conducting business for periods exceeding thirty days. Foreign nationals who need visas for entry to Jamaica will require a business visa to conduct business.

All importers are subject to the same procedures when trading in goods and services. To qualify for entry certificates, importers must obtain, inter alia, a supplier invoice, a certificate of value and origin, a declaration of value, and a bill of lading and sight. Products imported into Jamaica must also meet specific requirements administered by the Jamaica Bureau of Standards. In December 2001, Jamaica imposed the International Organization for Standardization ISO date representation (yy/mm/dd) as the official format for trade, but date labels are still accepted in the traditional European style (dd/mm/yy). The Jamaican economy is relatively open, but some non-tariff barriers remain. For instance, the Ministry of Agriculture's Veterinary Division requires certification from a U.S. federal agency for all products containing animal and animal by-products irrespective of quantity or form. Highly processed products such as cookies and chips therefore require certification from a government veterinarian. The Coffee and Coconut Industry Boards also have to issue import certificates for coffee beans and cooking oils, respectively, and importers can experience lengthy delays in obtaining these permits. Under intense pressure from farmers cooperatives, the GOJ instituted a 100 percent Common External Tariff (CET) plus an 80 percent Additional Stamp Duty (ASD), compounded to 260 percent, on select agriculture products.

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

All private entities are entitled to establish and own business enterprises and engage in all forms of remunerative activity, subject to, inter alia, labor, registration and environmental requirements. Private entities are also free to establish, acquire and dispose of interests in business enterprises. Public and private enterprises have equal access to markets, credit and business operations, such as licenses and supplies. However, if the government has to compete with the private sector, it will do so on a competitive basis so as to not distort the market.

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

The Jamaican Constitution guarantees property rights. Jamaica has a system of registered titles set out in the Registration of Titles Act, which recognizes and provides for the enforcement of secured interests in property by way of mortgage. It also facilitates and protects the acquisition and disposition of all property rights, though working through

Jamaica's cumbersome bureaucracy can result in significant delays. In particular, it sometimes takes a long time for landowners to secure titles. Squatting, especially on Crown (government) lands, is a major challenge.

Jamaica is a member of the World Intellectual Property Organization (WIPO) and is a signatory of the Bern Convention. Jamaica and the U.S. have an Intellectual Property Rights Agreement and a BIT, which provide assurances to protect intellectual property. However, Jamaica has remained on the special 301 "Watch List" for over ten years, largely because the patent and design law is not compliant with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). A new Patent & Designs Bill, including new rules and fee structures, has been drafted and is currently under review by the Chief Parliamentary Council of Jamaica. A Geographical Indications Act (GI) was passed in 2004 to protect products that originate from localities where a particular quality or reputation is attributable to its geographical origin. The Geographical Indications Act and regulations are now fully in force and TRIPS compliant. General law provides protection for trade secrets. Protection against unfair competition is also provided by the general law and the Fair Competition Act.

The Copyright Act of 1993, as amended, complies with the TRIPS Agreement and adheres to the principles of the Bern Convention, and covers works ranging from books and music to computer programs. Amendments in June 1999 make explicit the provision of copyright protection on compilations of works such as databases and make it an offense for a person to manufacture or trade in decoders of encrypted transmissions. It also gives persons having rights in encrypted transmissions or in broadcasting or cable program services a right of action against persons who infringe upon their rights. The act needs to be amended to give effect to the provisions of the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty (the Internet Treaties) to which Jamaica acceded in 2002. The Trademark Act of 1999 is also compliant with the TRIPS Agreement and provides the owner of registered trademarks exclusive rights for up to ten years, renewable. It provides for the protection of "well-known" marks under the Paris Convention on Industrial Property Rights of which Jamaica is a signatory. A TRIPS compliant Layout Designs Act has also been in effect since June 1999. The act provides protection for layout-designs for integrated circuits and gives the rights owner the exclusive right to reproduce, import, sell or otherwise commercially exploit the layout-design and to authorize other persons to do so. That right is in place for ten years and may be transferred by the rights owner.

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: Jeremy Slezak [SlezakJD@state.gov](mailto:SlezakJD@state.gov)

List of local attorneys: [http://kingston.usembassy.gov/attorney\\_services3.html](http://kingston.usembassy.gov/attorney_services3.html) , or: [http://photos.state.gov/libraries/jamaica/231771/PDFs/attorney-list\\_jamaica\\_rev\\_7-13\\_.pdf](http://photos.state.gov/libraries/jamaica/231771/PDFs/attorney-list_jamaica_rev_7-13_.pdf)

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

A Fair Competition Act (FCA) was implemented in 1993 and is administered by the Fair Trading Commission (FTC). The main objective of the FCA is to prevent business interests and government policies from hindering the efficiencies to be gained from a competitive system. The FCA deals with misleading advertisements, price-fixing, collusion, unfair trading practices and interlocking directorships.

There are laws and policies covering taxation, labor, health and other issues to avoid distortions or impediments to the efficient mobilization and allocation of investment. However, investors argue that the Redundancy Act, which deals with severance payment, is a disincentive to investment funds. In 2001, the mandate of the Anti-Dumping and Subsidies Commission was expanded through the implementation of a Safeguards Act, which protects producers from import surges. The GOJ also established the Office of Utilities Regulation to act as regulator of the country's utilities.

Although there has been improvement in the approval process for investment projects, it can still take anywhere from three months for Free Zone projects to over a year for green-field projects. The GOJ often speaks about plans to reduce bureaucracy as well as improve transparency and customer service levels within the public sector, but meaningful reform has been minimal.

The U.S. Embassy is not aware of any informal regulatory processes managed by NGOs or private sector associations or of any private sector and/or GOJ effort to restrict foreign participation in industry standards-setting consortia or organizations. However, in December 2004, the FTC implemented a non-legislative code of conduct governing the petroleum industry. The mandates of this code place restrictions on property sales and contracts between marketing companies and retailers, and are enforceable through fines levied by the FTC. Proposed legislation is available for public comment and submissions are generally invited from members of the public for items considered to be controversial. The legal, regulatory and accounting systems are transparent and consistent with international norms, and Jamaica has adopted the new International Financial Reporting System.

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

Since the 1980s, Jamaica has initiated reforms aimed at fostering private sector activity and increasing the role of market forces in resource allocation. These reforms intensified in the 1990s, resulting in trade, financial and capital account liberalization. This has led to the availability of credit on market terms, and foreigners are allowed to borrow freely on the local market at market-determined rates of interest. While some major financial products are still lacking, the private sector still has access to a variety of credit instruments.

Jamaica has an effective regulatory system established to encourage and facilitate portfolio investment. The Financial Services Commission and the Bank of Jamaica jointly regulate portfolio investment. At the end of December 2012, there were 13 supervised deposit-taking institutions consisting of 7 commercial banks, 2 merchant banks (Licensed under the Financial Institutions Act), and 4 building societies. With the inclusion of Credit Unions the supervised deposit taking institutions are expected to expand to 56. At the end of September 2013, the country's four largest commercial banks had total assets amounting to over US\$ 6 billion or approximately 90 percent of the entire assets of commercial banks. Five of the country's seven commercial banks, including the four largest, are foreign-owned. During the mid-1990s there was a crisis in the financial sector followed by an expensive resolution often referred as "FINSAC." Since 1998 there has been consolidation and increased output performance in the sector. Significant strides have also been made in terms of the regulatory framework, which are now in line with international standards. The GOJ is currently drafting omnibus banking legislation, which should facilitate more effective supervision of financial entities as well as streamline the standards and applicable legislation that apply to commercial banks, merchant banks, and building societies.

Based on the Rule 404 of the Jamaica Stock Exchange (JSE), fully paid shares shall be free from any restriction on the right of transfer and from all liens. Two listed companies have clauses within their memoranda and articles of association that restrict foreign investors, but these predate the JSE. JSE listing arrangements allow for 20 percent of issued share capital to be listed, but there is no requirement that stipulates that this threshold must be maintained after listing. The rules of the JSE and the Security Acts also have specific provisions relating to the process of takeover and mergers, but these are general and, given that there are no specific provisions (except in the cases mentioned above) regarding restrictions to foreign participation, it follows that there are no specific measures designed to protect against hostile foreign takeovers.

In 2009, Jamaica established a Junior Market for small and medium sized enterprises (SMEs) with capitalization of less than US\$5 million as a sub-set of the Jamaica Stock Exchange. At the close of 2013, the Junior Market listed 21 companies. The Junior Market has provided a way to create equity investing opportunities for smaller businesses by offering tax incentives for listed companies. This incentive, initially a 10-year tax holiday, was reduced to a 5-year tax holiday in 2014 to conform to the new incentives regime.

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

In recent years the GOJ has moved to sell holdings in SOEs, recently exemplified by the sale of three sugar factories to the Chinese firm COMPLANT (incorporated in Jamaica as the Pan-Caribbean Sugar Company); the sale of Air Jamaica to Caribbean Airlines (which resulted in the GOJ owning 16% of Caribbean Airlines); the sale of the Pegasus Hotel to local hoteliers (Quivin Group); and the sale of Wallenford Coffee to AIC International Investments. The GOJ also plans to divest its holdings in Clarendon Alumina Partners, Kingston Container Terminal, and Norman Manley International Airport. The GOJ has substantial holdings in Jamaica's oil refinery and ports, some local tourist attractions and resorts, and a 19.9% stake in Jamaica Public Service Company (JPS), the island's electricity provider.

Private firms compete with SOEs on fair terms in Jamaica. Jamaican SOEs generally lack the same profitability motives as private enterprises, as the GOJ often finances loss-making activities. For that reason, Jamaica's IMF program prioritizes divestment from some of the GOJ's most inefficient investments. Jamaica does not have a sovereign wealth fund or an asset management bureau.

#### **11. Corporate Social Responsibility**

In general, there is a good awareness of corporate social responsibility (CSR) among producers and consumers in Jamaica. Private sector firms that pursue CSR are favorably viewed in the country. Across the nation, there are dozens of private organizations that advocate for business interests. Frequently these organizations also facilitate projects for social and community benefit, including efforts to create job opportunities for youth, reduce crime, fight corruption, and make Jamaica a more transparent place to conduct business. Jamaica's justice system is overburdened, which impacts the court's ability to review business disputes in a timely manner and should be a major factor for businesspeople to consider when doing business in the country. Historically Jamaica has lacked credit reporting agencies. While a credit reporting agency did officially open in late-2012, there remains an absence of comprehensive information about potential local partners or borrowers. In such an environment, a solid reputation for CSR is seen as highly valuable among businesses in Jamaica.

## 12. Political Violence

Crime poses a greater threat to foreign investments in Jamaica than do politically motivated activities. In April 2009 there were small sporadic disturbances in response to a new gasoline tax. The resort city of Montego Bay experienced a day of social unrest in 2003, in response to alleged police excesses. The street demonstration, which included the blocking of roads, affected the flow of tourists between hotels and the airport. Violent crime, rooted in poverty, unemployment, and drug trafficking, is a serious problem in Jamaica, particularly in some urban areas. Sporadic gang violence and shootings are concentrated in certain inner city neighborhoods, but can occur in other areas. Extortion is a serious problem in certain areas of the commercial district and on large construction projects. In 2009, breaking from a tradition of strong cooperation with the U.S. Government on law enforcement matters, the GOJ hesitated in responding to U.S. requests for the extradition of alleged leaders of high-profile criminal organizations. This culminated in a dispute over the extradition request for drug kingpin Christopher "Dudus" Coke. After a three-day incursion by Jamaican security forces into the Tivoli Gardens community, widely recognized as Coke's stronghold, and followed by an island-wide search, Coke was eventually extradited to the United States on June 24, 2010. Coke subsequently pled guilty to racketeering charges, and in June 2012 was sentenced to twenty-three years in prison.

## 13. Corruption

Jamaica has a Corruption Prevention Act (CPA), which established a Corruption Prevention Commission in 2003 to, among other things: (1) receive, examine and document the statutory declarations of public sector workers; (2) receive and investigate any complaint regarding an act of corruption; and (3) conduct investigation into acts of corruption, if satisfied there are reasonable grounds to do so. To date there has been no enforcement, as the commission lacks the capacity to enforce the filing of declarations. Reports suggest that non-compliance is running at over 30 percent. However, the commission will be working with the Director of Public Prosecution to have enforcement measures implemented. The Embassy is not aware of any disproportionate application of corruption measures against foreign investors, but some members of the private sector perceive that the law is not applied impartially. During a 2010 panel discussion on governance, a Government of Jamaica Senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

Jamaica has ratified the Inter-American Convention Against Corruption. In 2008, Jamaica became party to the United Nations Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations. Prosecutors participate in regional anti-corruption conferences. The Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment. Transparency International (TI) performed a formal study of corruption in 2003, identifying widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, Jamaica's score of 3.0 out of 10 in 2009, moved to 3.3 in 2010, and remained at 3.3 during 2011. Jamaica's score moved up to 38 out of 100 in 2012 and 2013, ranking Jamaica at 83 of the 175 surveyed globally.

Corruption may well be the single greatest concern among Jamaicans, many of whom believe it is one of the root causes of the high crime rate. According to the January 6, 2013 edition of *the Gleaner*, in 2012 there were 54 police officers who were arrested for alleged

acts of corruption. In recent times only a few politicians have been arrested on charges of corruption. One politician was being tried before the Judicial Review Court and experiencing various delays, he was exonerated after Resident Magistrate upheld a “no case submission”. In another case, Contractor General Dirk Harrison also referred a junior government minister and a mayor to the Director of Public Prosecutions (DPP) for the illegal construction of shops at a municipal market. The DPP found no evidence to suggest that the minister was guilty of conspiracy to defraud the municipality, However the DPP found that there was “clear evidentiary material to institute criminal proceeding” against the mayor for attempting to mislead the Contractor General, contrary to section 29 (a) of the Contractor General Act. There are concerns that the government lacks the political will to root out corruption but some positive efforts, as demonstrated in the above cases, have occurred.

Under the Corruption Prevention Act (CPA), it is an offense to solicit or accept a bribe. Public servants can be imprisoned for up to ten years and fined as much as JD\$ ten million if found guilty of engaging in acts of bribery. Individuals and companies are also criminally liable if they bribe foreign public officials and can be prosecuted and face the same penalties. The legislation covers public officials who meet the JD\$2 million salary threshold and those working in sensitive positions such as police and military officers. However, it is well known that a number of public officials have been delinquent in complying with mandatory filing. The creation of the CPA could be viewed as evidence that GOJ officials are taking anti-corruption efforts seriously. However, financial constraints have crippled the commission's ability to fully execute its mandate of enforcing asset declarations. In 2007, The GOJ passed into law the Proceeds of Crime Act (POCA), a powerful legal tool that allows for both criminal and civil forfeiture and criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing and corruption, and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. However, the GOJ has been very slow to use this law. More active enforcement of the POCA by the GOJ would certainly strengthen anti-corruption efforts and send a signal that the country is serious about illicit activity. Within Jamaica's Parliament, legislation is pending for a Special Prosecutor's Bill to target corruption. In 2011, a report written by the Contractor General about corruption in the Jamaican Development Infrastructure Program, led to the resignation of Mike Henry, then-Minister of Transportation & Works.

The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, then Prime Minister Patterson tabled a code of conduct in Parliament for government ministers. The 49-point code covers such issues as conflict of interest and integrity in the conduct of public and private business. The agency responsible for combating corruption is the Commission for the Prevention of Corruption. Other “watchdog” organizations operating in Jamaica include Transparency International, Jamaicans for Justice, Families Against State Terrorism and the Farquharson Institute of Public Affairs.

### **Anti-Corruption Resources**

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a “Lay-Person's Guide to the FCPA” is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.



- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/department/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1,00.html). See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries/territories around the world. The CPI is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009). TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI), <http://info.worldbank.org/governance/wgi/index.asp>. These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. The World Bank Business Environment and Enterprise Performance Surveys are available electronically: <http://data.worldbank.org/data-catalog/BEEPS>.
- The World Economic Forum publishes the Global Enabling Trade Report, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/s?s=global+enabling+trade+report>.
- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.
- Government of Jamaica resources include the website of the Office of the Contractor General (<http://www.ocg.gov.jm/ocg/>), and the website of the Auditor General's Department (<http://www.auditorgeneral.gov.jm/>).

#### 14. Bilateral Investment Agreements

Jamaica has an investment treaty with the United States (signed February 1994, which came into force in March 1997). According to the OAS Foreign Trade Information System, Jamaica has also signed bilateral investment treaties with Argentina (1994), China (1994), Egypt (1999), France (1993), Germany (1992), Indonesia (1999), Italy (1993), Netherlands (1991), Nigeria (1992), Spain (2002), Switzerland (1990), United Kingdom (1994) and Zimbabwe (1999). Jamaica has double taxation agreements with the United States, Canada, CARICOM, China, Denmark, France, Germany, Norway, Sweden, Switzerland, and the United Kingdom.

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

The Overseas Private Investment Corporation has identified infrastructure, telecommunications, construction, tourism and renewable energy as areas where its programs can have an impact in Jamaica. OPIC political risk insurance can insure up to US\$ 40 million per project. OPIC also provides medium to long-term financing to ventures with significant U.S. participation. OPIC can normally guarantee or lend from US\$ 0.1 to 250 million per project. The country became a signatory to the Multilateral Investment Guarantee Agency in 1986 and ratified the agreement in 1987.

During 2010 the GoJ negotiated a Stand-by Agreement (SBA) with the International Monetary Fund (IMF) to stem instability in the economy. The agreement was to last for twenty-seven months and include eight quarterly reviews. However, Jamaica failed to complete the SBA, with only three quarterly reviews completed. The lack of implementation led to an economic crisis characterized by fiscal malaise, a rising debt-to-GDP ratio, and a deteriorating trade balance. Economic growth was also elusive, with only one quarter of growth in three years. These conditions left the new administration little choice but to approach the IMF for another agreement at the beginning of 2012.

After 17 months of negotiations, the government and the IMF agreed upon a stringent set of measures including prior actions under a four year Extended Fund Facility (EFF) that began in May 2013. The current program requires aggressive fiscal consolidation and steep debt reduction, while targeting economic growth and social intervention. But despite the strictures, Jamaica completed its first three reviews through March 2014, with the IMF stating that implementation under the program remains strong and there are tentative signs of a gradual economic recovery. However, risks linger as revenue growth continues to be flat and the debt reduction remains challenging to achieve.

## **16. Labor**

Jamaica had an estimated labor force of 1.3 million as of September 2013, of which 14.9% were unemployed. Since 1999 there has been a steady increase in the numbers of people trained in information technology, particularly geared for work in call centers. Jamaican university graduates routinely migrate to North America and the United Kingdom, leading to a shortage of highly educated and experienced labor in Jamaica. According to a World Bank study, it is estimated that up to 80% of college graduates emigrate from Jamaica.

Jamaica has an active and strong trade union movement with membership equal to an estimated 20 percent of the labor force, although the movement has weakened in recent years. Labor relations have traditionally been adversarial due to the level of distrust between workers and management. However, both parties have attempted to enhance the relationship between them by enacting a program for the management of labor cooperation (PROMALCO).

Jamaica has a number of labor friendly laws including the Employment (Termination and Redundancy Payments) Act, 1974 (as amended) (ETRPA). Under the Act, subject to some exclusions, employees with not less than two years of continuous employment who are dismissed on the grounds of "redundancy" are entitled to redundancy payment. As a general rule, workers with up to ten years of continuous employment are entitled to two weeks payment for every year as well the requisite notice pay, while workers with over ten years continuous employment are entitled to three weeks payment plus notice pay (notice pay is the period in which the employee must give notice to their employer before leaving their position except in certain cases such as firing for cause). There are no unemployment benefits in Jamaica.

Jamaica has ratified the following ILO Conventions: Right of Association (Agriculture) Convention 1921 – ratified July 8, 1963; Freedom of Association and Protection of the Right to Organize Convention, 1948 - ratified December 26, 1962; and, Right to Organize and Collective Bargaining Convention, 1949 – ratified December 26, 1962. The GOJ is adopting the ILO policy on HIV/AIDS in the workplace. The GOJ, working in conjunction with the ILO and local stakeholders, has also developed a national plan of action on flexibility in working time to guide flexible working arrangements in Jamaica. Under the Work Permit Act, a foreign national who wishes to work in Jamaica must first apply for a permit issued by the Ministry of Labor. The law, which seeks to give first preference to Jamaicans, requires organizations planning to employ foreign nationals to prove that attempts were made to employ a Jamaican national.

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

The Export Free Zones Act allows investors to operate solely with foreign exchange in activities such as warehousing, refining, manufacturing, redistribution, processing, assembling, packaging, and services such as insurance and banking. Incentives offered include a 100 percent tax holiday in perpetuity, no import licensing requirements, and exemption from customs duties on construction and raw materials, capital goods, and office equipment. Manufacturing companies operating in the Free Zones are allowed to sell 15 percent of their production on the local market with the approval of the responsible minister. Duty-free zones are primarily found in airports, hotels, and tourist centers and, as with free zone activities, do not discriminate on the basis of nationality. The Kingston and Montego Bay Free Zones provide factory space for the above listed activities. Amendments have also been made to the Export Free Zones Act to allow for the establishment of Single Entity Free Zones, with individual companies now designated as free zones. The Kingston Free Zone has an Informatics Park.

For foreign trade zone information investors can contact:

Ms. Beverly Williamson, Senior Vice-President, Business Management and Special Projects, Kingston and Montego Bay Free Zones, 27 Shannon Drive, Kingston 15, Tel: (876) 922-0290-8; 923-5274-5/6021; Fax: (876) 923-6023. 1 Mangrove Way, Montego Bay Free Port, P.O. Box 1377, Montego Bay, Tel: (876) 979-8696; Fax (876) 979-8088; Email: [bwilliamson@portjam.com](mailto:bwilliamson@portjam.com).

Mr. Desmond Sicard, General Manager (acting), Factories Corporation, 1 King St. Kingston, Tel: (876) 924-9600 -1; 968-4766, 968-2484, 968-2178, 968-7592; Fax: (876) 924-9630; Email: [factories@factoriesjamaica.com](mailto:factories@factoriesjamaica.com)

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

Table 1: FDI Stock in Jamaica (US\$ Million)

	2006	2007	2008	2009	2010	2011	2012
<b>Inward</b>	7,264	8,667	10,104	10,628	10,855	11,110	11,581
<b>Outward</b>	96	69	62	220	176	421	397

Source: World Investment Report

Table 2: FDI Stock as a Percent of GDP

	2006	2007	2008	2009	2010	2011	2012
<b>Inward</b>	65.4	67.7	73.1	86.5	80.7	75.3	76.4
<b>Outward</b>	0.5	0.5	0.3	1.8	21.3	2.9	2.6

Source: World Investment Report

Table 3: Inward FDI by Sectors (US\$ Million)

	2006	2007	2008	2009	2010	2011	2012p
<b>Ag/Manufacturing/Distribution</b>	40.8	46.7	75.2	23.5	10.5	22.3	17.5
<b>Information Tech/Communication</b>	58.2	164.5	257.0	136.6	83.1	85.7	93.6
<b>Minerals &amp; Chemicals</b>	11.6	5.2	2.3	0.0	0.6	6.0	33.9
<b>Insurance</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Tourism</b>	185.7	196.9	196.0	155.4	71.8	7.5	5.8
<b>Mining</b>	335.8	216.6	74.2	30.8	20.0	29.2	55.9
<b>Other</b>	118.1	59.3	714.3*	32.8	-18.4	21.7	218.2
<b>Sub-total</b>	<b>750.1</b>	<b>689.2</b>	<b>1,319.0</b>	<b>379.1</b>	<b>167.6</b>	<b>172.3</b>	<b>425.1</b>
<b>Retained Earnings</b>	132.1	177.3	117.5	161.8	60.1	45.9	87.1
<b>Divestment</b>	0.0	0.0	0.0	0.0	0.0	0.0	52.6
<b>TOTAL</b>	<b>882.2</b>	<b>866.5</b>	<b>1,436.6</b>	<b>540.9</b>	<b>227.7</b>	<b>218.2</b>	<b>564.8</b>

\*Includes inflows from the acquisition of majority shareholdings in a local conglomerate

Source: Bank of Jamaica

Table 4: Inward FDI as a Percentage of GDP (%)

	2006	2007	2008	2009	2010	2011	2012p
Ag/Manufacturing/Distribution	1.00	0.36	0.05	0.30	0.07	0.16	0.14
Information Tech/Communication	0.46	1.27	1.84	1.10	0.56	0.60	0.77
Minerals & Chemicals	0.11	0.04	0.02	0.00	0.0	0.04	0.28
Insurance	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Tourism	1.56	1.52	1.40	1.20	0.49	0.05	0.05
Mining	2.81	1.68	0.53	0.20	0.14	0.20	0.46
Other	0.99	0.46	5.12	0.30	0.12	0.15	1.80
Sub-total	<b>6.29</b>	<b>5.33</b>	<b>9.45</b>	<b>3.00</b>	<b>1.13</b>	<b>1.20</b>	<b>3.51</b>
Retained Earnings	1.11	1.37	0.84	1.30	0.40	0.32	0.72
Divestment	0.00	0.00	0.00	0.00	0.00	0.00	0.43
<b>TOTAL</b>	<b>5.72</b>	<b>6.70</b>	<b>10.29</b>	<b>4.30</b>	<b>1.54</b>	<b>1.52</b>	<b>4.66</b>

Source: Computed from BOJ and Statistical Institute of Jamaica data

Table 5: FDI Projects Facilitated by JAMPRO by Sector (US\$ Million)

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Agriculture	0.0	0.0	0.1	0.0	0.6	0.3
Creative Industries	10.1	18.1	7.1	0.63	1.4	2.7
ICT	50.9	160.1	38.7	5.1	75.1	37.2
Manufacturing	53.2	65.9	17.9	13.2	25.5	14.5
Mining, Energy, Others	5.6	5.0	0.6	13.3	30.1	24.9
Tourism	208.5	160.1	153.4	0.88	5.4	3.3

TOTAL	328.3	431.1	217.8	33.1	138.1	82.9
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Source: Jamaica Promotions Agency (JAMPRO) (does not capture all new investments)

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief 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:

common law system based on the English model

### International organization participation:

ACP, AOSIS, C, Caricom, CDB, CELAC, FAO, G-15, G-77, IADB, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, Interpol, IOC, IOM, ISO, ITSO, ITU, LAES, MIGA, NAM, OAS, OPANAL, OPCW, Petrocaribe, UN, UNCTAD, UNESCO, UNIDO, UNITAR, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

There are no exchange controls in Jamaica at this time.

### Treaty and non-treaty withholding tax rates

Jamaica has signed **29 agreements** (**22 DTC** and **7 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	
Antigua and Barbuda	DTC	6 Jul 1994	30 Nov 1994	No	No	
Barbados	DTC	6 Jul 1994	30 Nov 1994	No	No	
Belize	DTC	6 Jul 1994	30 Nov 1994	No	No	
Canada	DTC	30 Mar 1978	2 Apr 1981	No	No	
China	DTC	4 Jul 1996	16 Mar 1997	No	No	
Denmark	DTC	16 Aug 1990	10 Oct 1991	No	No	
Denmark	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
Dominica	DTC	6 Jul 1994	30 Nov 1994	No	No	
Faroe Islands	TIEA	4 Dec 2012	not yet in force	Unreviewed	Yes	
Finland	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
France	DTC	9 Aug 1995	21 May 1998	No	No	
Germany	DTC	8 Oct 1974	13 Sep 1976	No	No	
Greenland	TIEA	4 Dec 2012	not yet in force	Unreviewed	Yes	
Grenada	DTC	6 Jul 1994	30 Nov 1994	No	No	
Guyana	DTC	6 Jul 1994	30 Nov 1994	No	No	
Iceland	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
Israel	DTC	29 Jun 1984	13 Sep 1985	No	No	
Macao, China	TIEA	5 Oct 2012	not yet in force	Yes	Yes	
Norway	DTC	30 Sep 1991	2 Nov 1992	No	No	
Norway	DTC Protocol	4 Dec 2012	not yet in force	Yes	Yes	
Saint Kitts and Nevis	DTC	6 Jul 1994	30 Nov 1994	No	No	
Saint Lucia	DTC	6 Jul 1994	30 Nov 1994	No	No	
Saint Vincent and the Grenadines	DTC	6 Jul 1994	30 Nov 1994	No	No	



Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Spain	DTC	8 Jul 2008	16 May 2009	Yes	Yes	
Sweden	DTC	13 Mar 1985	7 Apr 1986	No	No	
Sweden	DTC Protocol	4 Dec 2012	not yet in force	Yes	Yes	
Switzerland	DTC	6 Dec 1994	27 Dec 1995	No	No	
Trinidad and Tobago	DTC	6 Jul 1994	30 Nov 1994	No	No	
United Kingdom	DTC	16 Mar 1973	31 Dec 1973	No	No	
United States	DTC	21 Dec 1980	29 Dec 1981	No	No	
United States	TIEA	18 Dec 2003	18 Dec 2003	Yes	Yes	

## Methodology and Sources

### Section 1 - General Background Report and Map

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

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

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

### **Section 3 - Economy**

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

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

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

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

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

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

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

### **Section 6 - Tax**

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

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

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