

# Samoa

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RISK & COMPLIANCE REPORT

DATE: January 2017

<b>Executive Summary - Samoa</b>	
<b>Sanctions:</b>	None
<b>FATF list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	Not on EU White list equivalent jurisdictions Offshore Finance Centre
<b>Medium Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> coconuts, bananas, taro, yams, coffee, cocoa</p> <p><b>Industries:</b> food processing, building materials, auto parts</p> <p><b>Exports - commodities:</b> fish, coconut oil and cream, copra, taro, automotive parts, garments, beer</p> <p><b>Exports - partners:</b> American Samoa 50.4%, Australia 22.6% (2012)</p> <p><b>Imports - commodities:</b> machinery and equipment, industrial supplies, foodstuffs</p> <p><b>Imports - partners:</b> Fiji 19%, NZ 18.8%, Singapore 18.2%, China 15.5%, Australia 5.8%, US 5.3% (2012)</p>	
<b>Investment Restrictions:</b>	

Information unavailable

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## Section 1 - Background

New Zealand occupied the German protectorate of Western Samoa at the outbreak of World War I in 1914. It continued to administer the islands as a mandate and then as a trust territory until 1962, when the islands became the first Polynesian nation to reestablish independence in the 20th century. The country dropped the "Western" from its name in 1997.



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

### FATF status

Samoa 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 Samoa was undertaken by the Financial Action Task Force (FATF) in 2015. According to that Evaluation, Samoa was deemed Compliant for 5 and Largely Compliant for 11 of the FATF 40 Recommendations.

#### Money Laundering/Terrorist Financing Risks (FATF Report)

Samoa faces a range of ML risks – primarily relating to its international (offshore) sector – and low TF risks, and the following are the most important in the Samoan context.

As outlined in Samoa’s 2012 National Risk Assessment (NRA), the international sector – in particular international business companies (IBCs) – money transfer operators and the cross-border movement of cash are areas of higher risk, as is the domestic banking sector due to its materiality. In addition, though it is quite limited (one small casino), the evaluation team considers that potentially significant risks arise from the recently established casino sector. Overall, and as discussed further below, the level of domestic proceeds-generating crimes, in particular more serious such crimes, appears to be quite low.

The main ML/TF risks in Samoa relate to the international sector, and it is important to understand both the nature of those risks and the steps already taken and planned by Samoa to address them. Despite some inherent risks, there is only limited evidence of the proceeds of foreign predicate crimes being laundered in Samoa or through its offshore sector (for example, on the basis of detections by domestic authorities or requests from foreign counterparts relating to Samoa’s offshore sector). In the last three years, the Samoan authorities have however received and responded to three requests for information relating to Samoan IBCs concerning possible fraud and/or money laundering activities. The lack of more such requests may be due to a lack of ML/TF and predicate crimes involving the offshore sector, despite the risks, or an inability to detect such crimes, or a combination of both.

IBCs in particular (by far the largest part of the offshore sector) present a potential international conduit for ML (and TF), particularly in light of their characteristics (relative anonymity, concerns regarding transparency of ownership and control information, the possibility of complex corporate structures etc) as well as their tax-exempt status. It is important also to note that, while it has taken and is taking some important steps, Samoa has

been slower than some other offshore financial centres to take action to address its ML/TF risks. As a result, there is a real risk that those seeking to use IBCs to launder money may have been drawn to Samoa in the past because of the relative weaknesses in Samoa's AML/CFT controls. While it is very difficult to determine, this suggests that the absence of evidence of ML (or TF) may be as much or more due to the fact that the system has not been able to detect it, rather than an assumption that, despite the absence of fully effective controls, ML or TF does not exist in the IBC sector.

AML/CFT controls in Samoa's offshore legislation have strengthened in recent years and continue to do so, but the historic business model of most TCSPs involved in the creation of IBCs poses some particular ML/TF risks, particularly in relation to the ability of TCSPs to conduct meaningful ongoing due diligence of IBCs which they create. Generally, at present Samoan TCSPs offer only a very limited service in relation to IBCs. In most cases, IBC registration and renewal on the basis of business introduced by an affiliated (foreign) TCSP is the only service offered by Samoan TCSPs. Only a small proportion of IBCs have a local (Samoan) TCSP act as a corporate director, nominee shareholder and/or become involved in the creation and/or operation of an IBC's (overseas) bank account, if any. In general terms:

- on creation of an IBC, TCSPs are required to identify and verify the identity of the beneficial owner of the IBC, and appear consistently to do so in practice;
- while the legal requirements need some strengthening in technical compliance terms, TCSPs are also required to determine the nature of the business of the beneficial owner, the source of wealth and funds, the expected nature of the relationship etc;
- however, even where full and proper CDD on the ultimate beneficial owner is conducted on the establishment of the IBC, the limited nature of the service offered by the Samoan TCSP, and its lack of involvement in the day-to-day operations of the IBC (including any transactions undertaken by the IBC), makes it difficult or impossible in practice for the TCSP to conduct meaningful ongoing CDD. With only modest annual fees and minimal contact with the IBC's activities, the TCSP tends not to undertake much monitoring of the IBC.

Samoan authorities are generally aware of the risks posed by the offshore sector and have taken a number of important steps since the 2006 MER to mitigate the risks arising from IBCs in particular. TCSPs are captured as 'financial institutions' under the Money Laundering Prevention Act 2007 (MLP Act) when they create legal persons or arrangements, including IBCs and international/foreign trusts and, as noted above, are required to identify and verify the identity of the ultimate beneficial owner (natural person) behind an IBC, as well as the directors. In practice, Samoan TCSPs do regularly seek to establish the source of funds of the beneficial owner of the IBC and conduct checks of beneficial owners and directors of IBCs on commercial and other databases. Through amendments to the International Companies Act 1988, bearer shares were immobilised (since 2008) and subsequently abolished (as of April 2014). There has also been a significant increase in supervisory resources and the frequency of inspections of TCSPs by SIFA, though further strengthening of supervision is required (as discussed in this report).

In addition, in April 2014 there was an important strengthening of financial record-keeping requirements under the International Companies Act 1988 relating to the financial activities of IBCs which, if fully and effectively implemented, should by the end of 2015 significantly increase the capacity of TCSPs to conduct ongoing due diligence and to detect of

suspicious activities by IBCs. These recent changes were not however fully implemented at the time of the on-site visit in November 2014 and, as outlined in this report, significant concerns remain about the extent to which TCSPs currently understand the beneficial ownership of IBCs and are able to detect and report suspicious transactions undertaken by IBCs.

Risks relating to the international banking and insurance sectors also exist, but are limited to some extent by the relatively small scope of these sectors and the fact that most of their business is in house/captive or of a private/fiduciary nature. International banks are primarily used for tax planning purposes and to carry out in-house treasury functions for their parent organisations. Seven international banks are licensed with SIFA; five are class B1 international banks and two are B2 international banks. B1 international banks can accept minimum deposits from the general public in USD\$ amounts ranging from \$5,000 to \$50,000. B2 international banks are restricted to offshore banking business as specified in their license and can accept deposits only from those persons or entities whose names are listed in the undertaking that accompanies the license application. Samoa advises that the five B1 international banks are however operating as B2 international banks and therefore do not accept deposits directly from the public at large, though they do conduct transaction with IBCs that may deal with the general public. This reduces, but does not eliminate, ML/TF risks, which are yet to be formally assessed by the Samoan authorities<sup>4</sup>. Of the four international insurance companies licensed with SIFA, three are captives and one offers long term and general insurance, but operates as a captive to underwrite general and life insurance business for the companies within its group. The key risk identified for insurance relates to risks associated with changes in shareholder. To mitigate this risk, the International Insurance Act 1988 requires that no shares are to be issued or transferred that will result in any change in the beneficial ownership without an application to be made seeking the prior written approval of the Registrar (SIFA).

Concerning domestic ML/TF risks, based on predicate crime statistics and feedback from the authorities, the level of domestic proceeds-generating crimes seems to be low, with the main relevant crime types being relatively low level fraud and drugs cases (mainly related to marijuana, largely for personal use). Samoa's domestic financial system is small, and there is a relatively low risk of large amounts of ML derived from domestic sources. The use of harder drugs (methamphetamine and cocaine) seems to be growing, though is still at a relatively low level. While it is not immune from drug trafficking and use, Samoa has generally been spared the experience of other comparable Pacific island jurisdictions of being used as a large drug trans-shipment point (unlike in several other Pacific countries, there have been no very large seizures in Samoa of drugs destined for other markets); this is partly a matter of geography, with Samoa lying between the main sea routes across the Pacific. Samoa has been relatively free from the influence of organised crime, but there are elements undertaking profit-driven crime in Samoa, particularly in relation to drug trafficking. Most of the recent suspicious transaction reports (STRs) reported and disseminated have related to possible romance and other foreign scams.

The risks associated with the small casino sector have not been assessed but, given the ML/TF risks identified internationally in relation to this sector, are potentially relatively high in the Samoan context. Samoa passed legislation in 2010 allowing for the establishment of casinos and Samoa's first (and, so far, only) casino started operating in October 2014. The potential risks associated with the casino sector were not assessed in the 2012 NRA, and had not been assessed as part of the draft 2014 NRA shared with the evaluation team at the time of on-site

visit. Given the ML/TF risks identified internationally in relation to the casino sector, it is critical that these risks be identified (and addressed) by Samoa at the earliest opportunity<sup>5</sup>. These risks are highlighted by the fact that the licence for a casino previously granted was cancelled by the Gambling Control Authority (the licensing authority) in August 2013 after a key person associated in the casino company was discovered to be under investigation for corruption abroad (the investigation had arisen after the granting of the license).

Corruption does not appear to be a large-scale problem in Samoa, though it occurs and is an important current focus of the government. Both the Ombudsman and the Auditor General have recently received additional resources to support efforts to combat corruption. During on-site interviews, a range of views was expressed to the evaluation team regarding the scale and type of corruption activities in Samoa, but there does not appear to be a large-scale domestic corruption problem which would generate large amounts of proceeds of crime. Public sector corruption seems largely limited to misappropriation of funds, some irregularities in cash management and procurement and middle and lower levels of the public sector. Allegations of abuse of power at higher levels tend to relate to claims about undue influence on government decisions, rather than personal gain. Samoa was ranked 50 (out of 175 countries) in 2014 by Transparency International. The risk of the proceeds of foreign corruption being laundered through Samoa – in particular, the offshore sector – certainly cannot be discounted. Authorities are broadly aware of these risks.

Although further and more sophisticated analyses of the risk of TF need to be conducted, the evaluation team is satisfied that the risk of terrorism and TF in Samoa is low. Samoan authorities assess the risk of both terrorism and TF to be low, which is generally supported by previous reports, open source materials and on-site interviews. No terrorist or TF activity, or terrorist funds, have ever been detected within Samoa or other Pacific island states involving Samoans and there have been no cases or attempts of TF detected, nor intelligence indications of such activities involving Samoa or Samoans. Nor have there have been any foreign requests to Samoa for information or assistance relating to either terrorism or TF involving Samoa or Samoans. Samoa's Transnational Crime Unit (TCU) has undertaken terrorism threat assessments with the support and assistance of the New Zealand Police and Australian Federal Police. In particular, a terrorism threat assessment was undertaken for the Third International Conference on Small Island Developing States (SIDS) which was held in Apia in September 2014. This assessment commenced 12 months prior to the conference and confirmed the risks of terrorism as low. Furthermore, Samoa has been a member of INTERPOL since 2010 and the TCU actively uses the INTERPOL network as a means of assessing risk generally, including the risk of terrorism and TF. The primary risk of TF involving Samoa would appear to relate to the possible movement of funds through the offshore sector, but no such cases have ever been detected. This may be as a result of TF activity going undetected, however investigations of any Samoan IBCs involved in TF activity would, as a matter of course (given IBCs hold their bank accounts etc outside of Samoa), involve international co-operation and are therefore more likely to be initiated in another jurisdiction. Samoa has however never received a foreign request relating to possible TF. While no separate assessment of the TF risks through the remittance sector has been conducted, no suspicious transactions relating to terrorism or TF have ever been detected in this or any other sector.

Samoa is a small island country with a small economy and has significant capacity constraints across government and the private sector to frame and implement laws and regulations.

Samoa has not yet undertaken a comprehensive study of its money laundering (ML) and terrorist financing (TF) risks and vulnerabilities, although Samoan agencies are able to highlight specific risks and sources of illicit funds.

Samoa does not have major crime problems; but there has been a recent increase in the number of cases involving organized crime, narcotics and firearms. No terrorist activity or cases of terrorist financing have been detected within Samoa.

Samoa's financial services system is small and there are only a few banks and non-bank financial institutions. Designated non-financial businesses and professions are comprised of lawyers, accountants, trust and company service providers and a very small number of real estate agents. Samoa's international banking sector is also relatively small.

Following on from Samoa's first APG/OGBS Mutual Evaluation in 2001, Samoa has sought to substantially revise its anti-money laundering and combating the financing of terrorism (AML/CFT) regime. While progress has occurred with building regulatory capacity and establishment of the FIU, there has, however, been a lack of progress with revising the key legislation underpinning Samoa's AML regime. A Money Laundering Prevention (MLP) Amendment Bill to amend Samoa's AML law, a draft Proceeds of Crime Bill and a draft Mutual Legal Assistance Bill have been awaiting passage through the parliament since 2003. As such, Samoa continues to lack of a fully effective AML/CFT system that meets international standards.

There are weaknesses with capacity and resources for Samoan enforcement and regulatory agencies involved in AML/CFT prevention, supervision and investigation.

Globally, Samoa is one of the highest recipients of remittances as a share of GDP. Remittances accounted for approximately 24 percent of Samoa's GDP in 2004. The bulk of such remittances are sent through regulated channels, however implementation of AML/CFT controls in the remittance sector remains relatively weak.

Samoa's international financial services (offshore) sector may pose a money laundering risk, to the extent that such offshore business may be subject to vulnerability. However, the Samoan authorities are taking careful steps to effectively manage the risk and minimise vulnerabilities.

## 2013 Asia Pacific Group on Money Laundering Yearly Typologies Report

### Trends:

With the increasing use and introduction of IT products and services such as, phone and mobile banking, scam activities continue to pose a high risk and vulnerability to the general

public and bank customers who are being misled to believing of getting large money value rewards for no clear or apparent reasons or proof that they actually engaged in genuine transactions.

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

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

Key Findings from the report are as follows: -

#### Perceived Risks:

The Independent State of Samoa is not known to have major organized crime, fraud, or drug problems and due to the small size of the local economy and the banking sector, Samoa has not become a haven for money laundering or terrorism financing. There is no significant evidence of large scale public corruption or black market activity. The most common financial crimes within the jurisdiction appear to be low-level fraud and theft.

According to Samoan law enforcement, criminal organizations based in Hawaii and California are involved in the trafficking of cocaine and crystal methamphetamine into Pacific island nations, including Samoa. Additionally, South American and Australian-based organizations use the South Pacific islands as transshipment locations for cocaine being shipped from South America into Australia and New Zealand.

Samoa is an offshore financial jurisdiction administered by the Samoa International Finance Authority (SIFA). For entities registered or licensed under the various Offshore Finance Centre acts, there are no currency or exchange controls, and no foreign exchange levies payable on foreign currency transactions. No income tax or other duties, nor any other direct or indirect tax or stamp duty is payable by registered/licensed entities.

There are four locally incorporated commercial banks, supervised by the Central Bank. There is one casino in operation, and one additional license the government has yet to allocate. In addition, one local lottery is in operation.

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

#### CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes  
Are legal persons covered: criminally: YES civilly: YES

#### KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO  
KYC covered entities: Banks, money remitters, casinos, real estate agents, lawyers, accountants,

trust and company service providers, credit unions, foreign exchange dealers, dealers of precious metals and stones, and insurance companies

**REPORTING REQUIREMENTS:**

Number of STRs received and time frame: 10: July 1, 2014 - June 30, 2015

Number of CTRs received and time frame: Not applicable

STR covered entities: Banks, casinos, real estate agents, lawyers, accountants, foreign exchange dealers, money remitters, credit unions, dealers of precious metals and stones, trust and company service providers, and insurance companies

**MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:**

Prosecutions: 0 in 2015

Convictions: 2 in 2015

**RECORDS EXCHANGE MECHANISM:**

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

Samoa is a member of the Asia/Pacific Group on Money Laundering (APG), a FATF-style regional body.

**ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

The Money Laundering Prevention Task Force (MLPTF) meets quarterly to advise or make recommendations to the Money Laundering Prevention Authority (MLPA), which houses Samoa's financial intelligence unit. The MLPTF is tasked to ensure close liaison, cooperation and coordination among various Government of Samoa departments and corporations. The independent and permanent Transnational Crime Unit (TCU) is responsible for intelligence gathering and analysis and investigating transnational crimes. However, it is a challenge for the TCU to gather information even from agencies in the MLPA.

Samoa became party to the UN Convention against Transnational Organized Crime on December 17, 2014. The International Companies Amendment 2015 made minor improvements to ensure the financial transparency of international companies. The Citizenship Investment Act 2015 enables foreigners to gain citizenship through an investment into the country of at least WST \$4million (approximately \$1.5 million) within three years of the approval of such application.

According to Section 14 (5) of the MLP Regulations 2009, every financial institution must undertake enhanced customer due diligence for higher risk customers, such as politically exposed persons (PEPs).

In late 2015, two individuals in Samoa were charged with running a pyramid scheme and were convicted of money laundering. They were first suspected by the Central Bank of Samoa when they were remitting money overseas.

While legal structures are in place to combat both money laundering and terrorism financing, resource constraints continue to limit investigatory and prosecutorial capacity. Reporting and oversight mechanisms appear to be under-funded, and the government

should consider expanding their resources, particularly in light of the risks associated with the offshore sector. The addition of gaming operations and the introduction of an economic citizenship program in Samoa will require increased regulatory oversight and management to limit money laundering risk and criminal exposure. Ascertaining beneficial ownership information should be required. The Government of Samoa should become a party to the UN Convention against Corruption.

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

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

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

**States Party to United Nations Transnational Organised Crime Convention** - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

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

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

Samoa 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**

Samoa is considered to be an Offshore Financial Centre

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	52
World Governance Indicator – Control of Corruption	66

### US State Department

Corruption has not been specifically identified as an obstacle to foreign investment. Both corruption and bribery are criminalized and prosecuted and the laws appear to be impartially applied.

The Office of the Ombudsman is charged with investigating official corruption. There are no international non-governmental "watchdog" organizations represented locally, and the country was ranked 69 out of 183, with a score of 3.9 on Transparency International's Corruption Perceptions Index 2011.

## Section 3 - Economy

The economy of Samoa has traditionally been dependent on development aid, family remittances from overseas, agriculture, and fishing. The country is vulnerable to devastating storms. Agriculture employs roughly two-thirds of the labor force and furnishes 90% of exports, featuring coconut cream, coconut oil, and copra. The manufacturing sector mainly processes agricultural products. One factory in the Foreign Trade Zone employs 3,000 people to make automobile electrical harnesses for an assembly plant in Australia. Tourism is an expanding sector accounting for 25% of GDP; 122,000 tourists visited the islands in 2007. In late September 2009, an earthquake and the resulting tsunami severely damaged Samoa, and nearby American Samoa, disrupting transportation and power generation, and resulting in about 200 deaths. In December 2012, extensive flooding and wind damage from Tropical Cyclone Evan killed four people, displaced over 6,000, and damaged or destroyed an estimated 1,500 homes in Samoa's Upolu island. The Samoan Government has called for deregulation of the financial sector, encouragement of investment, and continued fiscal discipline, while at the same time protecting the environment. Observers point to the flexibility of the labor market as a basic strength for future economic advances. Foreign reserves are in a relatively healthy state, the external debt is stable, and inflation is low.

### **Agriculture - products:**

coconuts, bananas, taro, yams, coffee, cocoa

### **Industries:**

food processing, building materials, auto parts

### **Exports - commodities:**

fish, coconut oil and cream, copra, taro, automotive parts, garments, beer

### **Exports - partners:**

American Samoa 50.4%, Australia 22.6% (2012)

### **Imports - commodities:**

machinery and equipment, industrial supplies, foodstuffs

### **Imports - partners:**

Fiji 19%, NZ 18.8%, Singapore 18.2%, China 15.5%, Australia 5.8%, US 5.3% (2012)

## Banking

The commercial banking system is made up of two foreign owned banks and two locally owned banks. The two foreign banks (ANZ and Westpac) own the bigger share of the

banking market, with estimates of them accounting for over 85% of the market share in Samoa. All banks in Samoa are supervised by the Central Bank in accordance with minimum prudential standards and requirements in line with the Basle Committee standards.

### Executive Summary

The Independent State of Samoa is a peaceful Parliamentary Democracy within the Commonwealth of Nations. It has a population of approximately 190,000 and a nominal GDP of US\$687 million (ST\$1.5 billion). Samoa became the 155<sup>th</sup> member of the WTO in May 2012, and graduated from least developed country (LDC) status in January 2014.

Samoa is recognized throughout Oceania as one of the most politically and economically stable democratic countries in the region - based on strong social and cultural structures and values. The country has been governed by the Human Rights Protectorate Party (HRPP) since 1982, and Prime Minister Tuilaepa Sailele Malielegaoi has been in power since 1998.

Samoa is located south of the equator, about halfway between Hawaii and New Zealand in the Polynesian region of the Pacific Ocean. The total land area is 1,097 square miles, consisting of the two large islands of Upolu and Savai'i which account for 99% of the total land area, and eight small islets. About 80% of all land is customary land, owned by villages, with the remainder either freehold or government owned. Customary land can be leased.

Several changes and natural disasters have taken place in Samoa in the past five years that have shaped the country significantly. Samoa previously drove on the right (U.S.) side of the road, but in September 2009 switched to driving on the left (British) side. All cars now imported are right-hand drive. Also, Samoa was previously located east the international dateline, but in December 2012 jumped to the other side (UTC +13), switching from the last sunset of the world each day to becoming one of the first countries to start each day.

The September 2009 tsunami and the December 2012 Cyclone Evan each inflicted damage to the tune of roughly ¼ of Samoa's GDP. Samoa has recovered from the tsunami, and largely recovered from TC Evan, but both were significant setbacks to the economy.

The service sector accounts for nearly three-quarters of GDP and employs approximately 50% of the formally employed labor force (which is about 20% of the population). Tourism is the largest single activity, more than doubling in visitor numbers and revenue over the last decade. Industry accounts for nearly 15% of GDP while employing less than 6% of the work force. The Central Bank of Samoa expects a 3% growth in the economy in 2014, with "other manufacturing" leading the way. This is largely due to an expected rebound in exports by Yasaki EDS (automotive manufacturer).

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

The Government of Samoa welcomes business and investors. Samoa's fertile soil, English-speaking educated workforce, and tropical island climate offer advantages to focused investors, though the country's distance from major markets affect the cost of imports and exports. The main productive sectors of the economy are agriculture, and tourism while depending heavily on overseas remittances. Samoa became the 155<sup>th</sup> member of the WTO on May 10, 2012.

Samoa is recognized throughout Oceania as one of the most politically and economically stable democratic countries in the region - based on strong social and cultural structures and values. For investors, Samoa offers a trained, productive and industrially adaptable work

force that communicates well in English; competitive wage rates; free repatriation of capital and profits; well-developed, reasonably priced, transport infrastructure, telecommunications, water supply, electricity; industry incentive packages for Tourism and Manufacturing sectors; a stable financial environment with a single-digit inflation, a balanced budget and international reserves; relatively low corporate & income taxes; and a pleasant and safe lifestyle.

The Ministry of Commerce, Industry and Labor administers Samoa’s foreign investment policy and regulations (MCIL - <http://www.mcil.gov.ws/index.html>). To open up a branch of an existing corporation in Samoa, one must register the company for about US \$150. All businesses with foreign shareholdings must obtain and hold valid foreign investment registration certificates. The application fee is about US \$50 and can be obtained by contacting MCIL. Certificates are valid until the business terminates activity. If a business does not commence activity within 2 years after a certificate is issued, the certificate becomes invalid. Upon approval of the FIC, the foreign investor is then required to apply for a business license before operating in Samoa. Fees range from US \$100-\$250, depending on the type of business.

MCIL also processes company registrations. The fee to register an overseas company is about US \$150. For a company to qualify as a “Samoan company,” the majority of share-holders must be Samoan.

All businesses in the greater Apia area have access to broadband and wi-fi, which is reasonably reliable and fast, but relatively expensive. In rural Upolu and on Savaii Island there is limited availability of high speed internet and wi-fi. However, Samoa recently completed the installation of a National Broadband Highway which will provide fiber optic data services and 4G LTE cellular data speeds to the entire country. It is currently being tested, and is expected to be operative and commercially available by mid-2014. 3G internet accessibility from cellular devices is currently available nationwide.

Samoa’s current connection to the internet is through the fiber optic ASH cable, which runs from American Samoa to Hawaii, with the SAS cable linking the two Samoas, and has a durable lifetime through 2020. Samoa’s future links to the outside world seem promising, with options to connect to the Southern Cross Cable, the main current trans-Pacific link between Australia and the mainland United States, or through the proposed Hawaiki cable which will run between New Zealand, Australia, and the west coast of the U.S.

Land has a special status in Samoa, as it does in most Pacific Island countries. Under the country’s land classification system, about 80% of all land is customary land, owned by villages, with the remainder either freehold or government owned. The standard way for obtaining customary land, which cannot be bought or sold, is through long term leases that must be negotiated with the local communities. A typical lease for business use might be for 30 years, with the option of a further 30 years after that, but longer terms can be negotiated. It should be noted that customary land cannot be mortgaged, and thus cannot be used as collateral to raise capital or credit. Freehold land, mostly based in and around Apia can be bought, sold and mortgaged. Only Samoan citizens may buy freehold land, unless approval is obtained from Samoa’s Head of State.

Measure	Year	Index/ Ranking	Website Address

TI Corruption Perceptions Index	2011	3.9 – 69/183	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundations' Economic Freedom Index	2013	57.1 – 106/177	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>
World Bank's "Ease of Doing Business"	2013	57/189	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
World Bank GNI per capita	2012	\$3,260	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) or \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards, are available here: <http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

## 2. Conversion and Transfer Policies

The Central Bank of Samoa controls all foreign exchange transactions as well as matters relating to monetary stability and supply of money within the country. This includes international transactions, overseas transfer of funds and funding of imports, and registration of insurance companies. Repatriation of overseas capital and profits is normally permitted provided the original investment entered Samoa through the banking system or in an otherwise formally approved manner. Investors also have the freedom to repay principle and interest on foreign loans raised for the purpose of the investment, and the freedom to pay fees to foreign parties for the use of intellectual property rights.

## 3. Expropriation and Compensation

Expropriation cases in Samoa are not common; however, there was one significant case that occurred in 2009 over land designated for a new six story government complex. A business signed a 20-year lease with the government in 2005 but was then asked to move in 2008 to make way for the new building. The business moved, but won a settlement in the Court of Appeals against the government for a much larger sum than the government initially offered the business for vacating the land.

## 4. Dispute Settlement

The provisions of the Arbitration Act 1976 shall have full effect in relation to disputes that involve foreign investors in Samoa. Subject to this Act and to any other law in Samoa, the Convention Settlement of Investment Disputes signed in Washington on 3rd February 1978 and ratified by Samoa on the 25th April 1978, shall have the force of law in Samoa. The

Alternative Dispute Resolution Act 2007 also provides alternative dispute resolution procedures where civil or criminal cases may arise.

## 5. Performance Requirements and Incentives

The Industry Development and Investment Promotion Division (IDIPD) under MCIL administers several schemes designed to provide assistance to businesses that produces for overseas and domestic markets, enhancing development of domestic businesses as well as property developers in the tourism industry, and also businesses in the private sector. Such schemes offer duty concessions on imported goods for the tourism and manufacturing industries and income tax exemptions for up to 5 years for hotel operators.

## 6. Right to Private Ownership and Establishment

Foreign Investors are permitted 100% ownership in all different sectors of the industry with the exception of conditions for restricted activities below.

The following businesses are reserved for Samoan Citizens only:

1. Bus transport services for the general public
2. Taxi transport services for the general public
3. Rental vehicles
4. Retailing
5. Saw milling
6. Traditional elei garment designing and printing

Restricted List – Open to foreign investors upon condition:

The direct or indirect carrying on of any aspect of business or activity in an economic sector specified in column 1 or economic sub-sector specified in column 2 is subject to the conditions specified in column 3.

Economic Sector	Economic Sub-sector	Conditions
Fishing	Commercial fishing vessels – vessels categories A ( $\leq 11\text{m}$ in length), B ( $11\text{m} \leq 12.5\text{m}$ in length), C ( $12.5\text{m} \leq 15\text{m}$ in length), D ( $15\text{m} \leq 20.5\text{m}$ in length) & E ( $\geq 20.5\text{m}$ in length) categorized by the Ministry responsible.	A foreign investor must have a maximum 40% equity.  A license issued for commercial fishing vessels is limited in different categories listed by the Ministry responsible for fisheries, except for Category A with no limit.
Manufacturing	Nonu (known scientifically as <i>Morinda citrifolia</i> , is a tropical fruit processed as	A foreign investor must establish a joint venture with a local partner.

	juice for many folk remedy uses).	
	Coconut Virgin Oil (oil from the coconut that is in its unrefined and natural form (without fragrance and other added preservatives etc).	A foreign investor must establish a joint venture with a local partner.
Services	Architectural Professional engineering General construction Sewage Refuse disposal	A foreign investor providing an architectural service must establish a joint venture with a local partner.  A foreign investor providing an engineering service must be incorporated in Samoa.  Only through incorporation in Samoa.  A foreign investor providing a sewage service must establish a joint venture with a local partner.  A foreign investor providing a refuse disposal service must establish a joint venture with a local partner.
	Sanitation and similar services	A foreign investor providing a sanitation and similar service must establish a joint venture with a local partner.

## 7. Protection of Intellectual Property Rights

Samoa has legislation protecting patents, utility models, designs and trademarks. Enforcement is moderate. Counterfeit products are available on the local market. Counterfeit home entertainment items are common as there is only one theater in Samoa to show legitimately distributed movies.

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: Benjamin Harding (685) 21631 x2231 [hardingbw@state.gov](mailto:hardingbw@state.gov)

Local lawyers list: [http://samoa.usembassy.gov/list\\_of\\_lawyers.html](http://samoa.usembassy.gov/list_of_lawyers.html)

## 8. Transparency of Regulatory System

Launching a company takes only four procedures, and no minimum capital is required. The regulatory framework generally supports entrepreneurial activity, but application of the commercial codes is not always straightforward.

*Doing Business 2013* ranked Samoa 20<sup>th</sup> (out of 185 economies) in starting a business and 57<sup>th</sup> in the ease of doing business.

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

Samoa is well-served with banking and finance infrastructure. It has no less than four commercial banks, complimented by a dynamic development bank. The sector is ably regulated by the Central Bank of Samoa. The largest banks are regional operators ANZ and Westpac, which offer a wide range of services based upon electronic banking platforms. Although they service all markets, they tend to dominate the top-end, encompassing corporate, government and high net worth individuals. Samoa is still a cash-based society, however, and this has enabled two locally-owned entrants, the National Bank of Samoa and Samoa Commercial Bank, to each garner double-digit market share after entering the market quite recently.

With its International Finance Centre (SIFA)—the first Pacific center to be white-listed by the OECD—and a well-structured financial services sector, Samoa is well placed to service the needs of both local and offshore businesses.

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

Private enterprises are allowed to compete with public enterprises under the same terms and conditions. Laws and rules do not offer preferential treatment to SOEs. State-owned enterprises are subject to budget constraints and these are enforced.

SOEs are active in the Energy, Water, Health, Tourism, Banking, Agriculture supplies, and Ports/Airports sectors. Laws do not provide for a leading role for SOEs or limit private enterprise activity in sectors in which SOEs operate. SOEs have government appointed boards, and operate with varying degrees of autonomy with respect to their governing Ministry.

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

There is a general awareness of corporate social responsibility among both producers and consumers, and foreign and local enterprises to follow generally accepted CSR principles such as the OECD Guidelines for Multinational Enterprises. Firms that pursue CSR are viewed favorably but consumers generally prioritize value for money ahead of CSR claims.

## **12. Political Violence**

The parliamentary republic functions without political violence. The risk of civil disorder is low. There is no civil strife or insurrection. There are no significant border disputes at risk of military escalation.

## **13. Corruption**

Corruption has not been specifically identified as an obstacle to foreign investment. Both corruption and bribery are criminalized and prosecuted and the laws appear to be impartially applied.

The Office of the Ombudsman is charged with investigating official corruption. There are no international non-governmental "watchdog" organizations represented locally, and the

country was ranked 69 out of 183, with a score of 3.9 on Transparency International's Corruption Perceptions Index 2011.

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

Samoa is not party to any bilateral investment treaties.

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

Overseas Private Investment Corporation (OPIC) insurance is available to investors in Samoa, and OPIC can provide political risk insurance, finance, direct loans, and loan guarantees.

The registry of insurance companies in Samoa is kept and maintained by the Central Bank of Samoa (CBS) and can be contacted for further insurance related matters.

#### **16. Labor**

The 2011 Census placed the total workforce at 48,000 people, with the unemployment rate at 5.7%, and 34% of the workforce engaged in subsistence living.

Wages and salaries are comparatively low. Private sector minimum wage is roughly 90 US cents an hour.

Local skilled labor is available in sufficient quantities to undertake most types of building work, except for some specialized skills and supervisory-level manpower, which is recruited locally and from abroad.

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

Samoa does not operate any foreign trade zones or free port facilities.

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

The U.S. Commerce Department's Bureau of Economic Analysis records no U.S.-sourced FDI stocks for Samoa. According to the MCIL, foreign businesses are largely in the retail sector, and many are owned by ethnic Chinese and Indians. The Samoa Chamber of Commerce and Industry is the country's peak private sector organization and its membership covers businesses in all sectors.

## Section 4 - 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:

mixed legal system of English common law and customary law; judicial review of legislative acts with respect to fundamental rights of the citizen

### International organization participation:

ACP, ADB, AOSIS, C, FAO, G-77, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IPU, ITU, ITUC (NGOs), MIGA, OPCW, PIF, Sparteca, SPC, UN, UNCTAD, UNESCO, UNIDO, UPU, WCO, WHO, WIPO, WMO, WTO

## Section 5 - Tax

### Exchange control

For further information - <http://www.cbs.gov.ws/excontrols/ecr1999/index.html>

### Treaty and non-treaty withholding tax rates

Samoa has signed **16 agreements (0 DTC and 16 TIEA agreements)** providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Australia	TIEA	20 Mar 2010	24 Feb 2012	Yes	Yes	
Denmark	TIEA	16 Dec 2009	22 Mar 2012	Yes	Yes	
Faroe Islands	TIEA	16 Dec 2009	not yet in force	Unreviewed	Yes	
Finland	TIEA	16 Dec 2009	24 Mar 2012	Yes	Yes	
Greenland	TIEA	16 Dec 2009	not yet in force	Unreviewed	Yes	
Iceland	TIEA	16 Dec 2009	23 May 2012	Yes	Yes	
Ireland	TIEA	8 Dec 2009	21 Feb 2012	Yes	Yes	
Japan	TIEA	4 Jun 2013	6 Jul 2013	Unreviewed	Yes	
Mexico	TIEA	30 Nov 2011	18 Jul 2012	Yes	Yes	
Monaco	TIEA	7 Sep 2009	12 Mar 2012	Yes	Yes	
Netherlands	TIEA	14 Sep 2009	2 Mar 2012	Yes	Yes	
New Zealand	TIEA	24 Aug 2010	26 Mar 2012	Yes	Yes	
Norway	TIEA	16 Dec 2009	30 Mar 2012	Yes	Yes	
San Marino	TIEA	1 Sep 2009	21 Mar 2012	Yes	Yes	
South Africa	TIEA	26 Jul 2012	not yet in force	Unreviewed	Yes	
Sweden	TIEA	16 Dec 2009	1 Dec 2012	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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