South Sudan

RISK & COMPLIANCE REPORT

DATE: January 2017

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<tr><th colspan="2">Executive Summary - South Sudan</th></tr>
<tr><td>Sanctions:</td><td>EU, US and UN Arms embargo and asset freezes against targeted individuals</td></tr>
<tr><td>FAFT list of AML Deficient Countries</td><td>No</td></tr>
<tr><td>Higher Risk Areas:</td><td>Compliance with FATF 40 + 9 Recommendations
Weakness in Government Legislation to combat Money Laundering
Not on EU White list equivalent jurisdictions
Corruption Index (Transparency International & W.G.I.))
World Governance Indicators (Average Score)
Failed States Index (Political Issues)(Average Score)</td></tr>
<tr><td colspan="2">Major Investment Areas:

Agriculture - products:

sorghum, maize, rice, millet, wheat, gum arabic, sugarcane, mangoes, papayas, bananas, sweet potatoes, sunflower, cotton, sesame, cassava (manioc), beans, peanuts; cattle, sheep</td></tr>
<tr><td colspan="2">Investment Restrictions:

Foreign investors may own or control business organizations in any sector; however, South Sudan's Investment Authority Board of Directors is authorized to publish periodically a list limiting the sectors in which non-South Sudanese nationals are permitted to invest.

Foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity, as well as freely to establish, acquire and dispose of interests in business enterprises. South Sudanese businesses are given priority in several areas, including micro-enterprises, postal services, car hire and taxi operations, public relations, retail, security services, and the cooperative services. Under the investment law, the government of South Sudan leases land to foreign investors for limited periods of time, generally not to exceed 30-60 years, with the possibility of renewal.</td></tr>
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Section 1 - Background

Egypt attempted to colonize the region of southern Sudan by establishing the province of Equatoria in the 1870s. Islamic Mahdist revolutionaries overran the region in 1885, but in 1898 a British force was able to overthrow the Mahdist regime. An Anglo-Egyptian Sudan was established the following year with Equatoria being the southernmost of its eight provinces. The isolated region was largely left to itself over the following decades, but Christian missionaries converted much of the population and facilitated the spread of English. When Sudan gained its independence in 1956, it was with the understanding that the southerners would be able to participate fully in the political system. When the Arab Khartoum government reneged on its promises, a mutiny began that led to two prolonged periods of conflict (1955-1972 and 1983-2005) in which perhaps 2.5 million people died - mostly civilians - due to starvation and drought. Ongoing peace talks finally resulted in a Comprehensive Peace Agreement, signed in January 2005. As part of this agreement the south was granted a six-year period of autonomy to be followed by a referendum on final status. The result of this referendum, held in January 2011, was a vote of 98% in favor of secession. Independence was attained on 9 July 2011. Since independence South Sudan has struggled with good governance and nation building and has attempted to control rebel militia groups operating in its territory. Economic conditions have deteriorated since January 2012 when the government decided to shut down oil production following bilateral disagreements with Sudan.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

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

Compliance with FATF Recommendations

South Sudan has not yet undertaken a Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards.

US Department of State Money Laundering assessment (INCSR)

South Sudan 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:

South Sudan borders a number of jurisdictions in various states of conflict or lacking strong authorities. South Sudan continues to deal with an intra-party conflict amongst political elites, which broke out in December 2013, and developed into an internal civil war. Although the government and diverse opposition forces concluded a peace agreement in August 2015, fighting has continued in various parts of the country. The effects of the conflict on the economy will be evident for some time.

While the Republic of South Sudan had begun to develop prior to the outbreak of civil conflict, much remains to be accomplished in this fledgling state. The country has a cash-based economy, with a small, poorly developed financial system. Corruption and the flow of illicit funds; the offshoring of assets by elites; large-scale abuse and mismanagement of the extractives industry, particularly oil; financial and trade-based fraud; the convergence of licit and illicit systems; disguised beneficial ownership; and regulatory evasion have all combined to create a kleptocratic governing system. Lacking an AML/CFT regime and possessing long, porous borders, South Sudan is vulnerable to exploitation by criminals of every type, including those seeking overland routes for bulk cash smuggling, those financing terrorist activities, and those wishing to perpetrate other forms of financial crime. Reports of money laundering by Somali nationals through foreign exchange bureaus in South Sudan are persistent, though unconfirmed.

The UN, EU, and United States have imposed travel restrictions and asset freezes against six members of the government and former opposition militaries for actions that were found to undermine the peace, stability, or security of South Sudan or threaten or impede the cessation of hostilities.

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: List approach
Are legal persons covered: criminally: YES **civilly:** NO

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: NO **Domestic:** NO
KYC covered entities: Banks; cash dealers; accountants; dealers in precious metals and stones; regulators; customs officers; attorneys, notaries, and other independent legal professionals; and real estate agents

REPORTING REQUIREMENTS:
Number of STRs received and time frame: Not available
Number of CTRs received and time frame: Not applicable
STR covered entities: Banks; cash dealers; accountants, real estate agents; dealers in precious metals and stones; regulators; customs officers; attorneys, notaries, and other independent legal professionals

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 0 in 2014
Convictions: 0 in 2014

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT:NO **Other mechanism:** NO
With other governments/jurisdictions: NO
South Sudan is not a member of a FATF-style regional body (FSRB).

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:
South Sudan does not yet have sufficient laws, regulations, or enforcement capacity in place to address financial crime. Although the Republic of South Sudan criminalized money laundering in March 2012, no enabling regulations or steps toward implementation have been put in place. The 2012 law contains suspicious transaction reporting (STR) and KYC provisions; however, no such programs have been implemented. South Sudan's work to address capacity issues generally, including anti-corruption initiatives, has largely ceased due to donor pull-back related to the conflict. Money laundering and terrorism financing, which had only recently been part of the government's agenda, have not moved forward. On January 23, 2015, the Government of South Sudan became a party to the United Nations Convention against Corruption.

Despite the criminalization of money laundering, no dedicated law enforcement mechanisms exist with sufficient capacity and the will to combat financial crime in general. A segment of the South Sudanese security forces has been tentatively identified to investigate financial crimes, but lacks staff and training in financial investigations and law enforcement procedures. The judiciary is significantly understaffed and continues to transition, adopting a common law system and harmonizing its legal system with customary law. There are no courts or prosecutors currently assigned to work specifically on financial crimes.
The South Sudan Anti-Corruption Commission (SSACC), which is an autonomous and impartial body, has a mandate to investigate cases of corruption with a view to protecting public property and combating administrative malpractices in public institutions. However, the SSACC lacks capacity and the resources to conduct investigations and does not have authority to prosecute misconduct.

Money Laundering and Financial Crimes

In December 2015, the Bank of South Sudan unpegged the South Sudanese pound from the dollar and allowed it to float. While this decision closed the gap between the official and parallel exchange rates, it did not eliminate it, and continuing foreign exchange shortages mean that access to foreign currency for the typical small business operator is primarily through the black market at the parallel market exchange rate, which in turn translates to the prices of imported goods being based on that rate. Similarly, the majority of the population requiring foreign currency must resort to the black market. The owners and management of banks and forex bureaus have benefitted from the parallel market. Reportedly, government officials are the biggest beneficiaries of this inefficient system.
The majority of the available foreign currency has been allocated by the government to selected private sector importers to operate under Letters of Credit by which the companies are allowed to purchase foreign currency for their planned import of essential goods (mainly fuel, food, and medication). A not-yet-published report by the National Audit Chamber on the Letters of Credit system examined the period of time from 2012 – 2015 and revealed widespread fraud, corruption, and abuse. The audit concludes that nearly $1 billion may have been scammed, the result of a system easy to manipulate, suffering from weak oversight, and lacking administrative coordination and discipline.

The Government of South Sudan should solicit AML/CFT-related technical assistance from international donors, subject itself to a mutual evaluation, and seek membership in an FSRB. The culture of corruption that permeates all levels of commerce and government should be addressed.

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

According to the US State Department, South Sudan does not conform with regard to any government legislation required to combat money laundering.

EU White list of Equivalent Jurisdictions

South Sudan 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

South Sudan is not considered to be an Offshore Financial Centre

US State Dept Trafficking in Persons Report 2014:

South Sudan 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.

South Sudan is a source and destination country for men, women, and children subjected to forced labor and sex trafficking. South Sudanese women and girls, particularly those from rural areas or who are internally displaced, are vulnerable to forced labor as domestic servants in homes in Yei, Bor, Wau, Torit, Nimule, Juba, and elsewhere in the country; most are believed to work without contracts or government-enforced labor protections. Some of these women and girls are sexually abused by male occupants of the household or forced to engage in commercial sex acts. South Sudanese girls, some as young as 10-years-old, engage in prostitution within the country—including in restaurants, hotels, and brothels—at times induced by or under the control of third parties, including corrupt law enforcement officials. The majority of these victims are exploited in urban centers such as Juba, Torit, and Wau. Child prostitution continued to rise in Juba during the reporting period, as did the number of street children and child laborers—two groups that are highly vulnerable to labor and sexual exploitation. Children working in construction, market vending, shoe shining, car washing, rock breaking, brick making, delivery cart pulling, and begging may be victims of forced labor. Girls as young as 9-years-old in Eastern Equatoria state were forced into marriages, at times as compensation for inter-clan killings; some may have been subsequently subjected to sexual slavery or domestic servitude.

South Sudan is a destination country for Ugandan, Kenyan, Ethiopian, Eritrean, and Congolese (DRC) women and girls subjected to sex trafficking. Many migrate willingly, with the promise of legitimate work, and are subsequently forced or coerced into the sex trade. South Sudanese and foreign business owners entice men and women from these countries, as well as South Sudanese women and children living in rural areas, with offers of legitimate employment opportunities in hotels, restaurants, and the construction industry; many are subsequently forced to work for little or no pay or are subjected to sex trafficking. Kenyan and Ugandan children are subjected to domestic servitude and forced labor in construction and street vending in South Sudan. Local civil society organizations report that instances of trafficking continued to increase during the reporting period, largely due to a continued influx of foreign laborers, including children, who are vulnerable to exploitation. Some traffickers may operate in organized networks within the country and across borders.

Violent conflict that erupted in the country in December 2013 resulted in the displacement of more than one million people and orphaned an unknown number of children, and displaced persons and orphans are at an increased risk for being exploited in forced labor or sex trafficking. Inter-ethnic abductions, as well as abductions by external criminal elements, continued between some communities in South Sudan, especially in Jonglei, Central Equatoria, and Eastern Equatoria states. The UN reported 193 confirmed and 57 unconfirmed child abductions in Jonglei State in 2013. Some abductees were subsequently subjected to conditions of domestic servitude, forced animal herding, or sex trafficking. Sudanese slave traders abducted South Sudanese girls, particularly in Upper Nile state, transported them into

Sudan, and forced them into domestic servitude or sold them into other forms of slavery in Khartoum or other urban centers. During the now-concluded North-South civil war, members of the Missiriya and Rizeigat ethnic groups abducted and enslaved thousands of Dinka women and children and a smaller number of Nuba children. Some of those enslaved remain in Sudan with their captors. In January 2013, the UN reported that Rizeigat militia from Sudan abducted 96 children from Northern Bahr El Ghazal State and took them to East Darfur; the children were released and returned during the year. Orphans were vulnerable to abduction from refugee camps, as well as while moving between camps, particularly while crossing the Kenya-South Sudan border, for exploitation in sex and labor trafficking.

Children remained among the ranks of the government's security forces, the Sudan People's Liberation Army (SPLA), and the UN reported 64 boys were recruited to serve in support roles in the SPLA during 2013. UN monitors identified and removed 167 children from the SPLA and two children from the South Sudan National Police Service (SSNPS) in 2013. The recruitment of children into the armed forces reportedly increased following the outbreak of civil conflict in December 2013. The UN reported that children were among those recruited into the SPLA following the onset of violence, and children as young as 12-years-old were observed participating with the SPLA in armed conflict in Bentiu. Some areas of the country were difficult to reach or too unsafe to access throughout the year—including Jonglei State, where the UN received many reports of recruitment and use of children. After December 2013, much of the country was inaccessible, limiting international monitors' ability to assess the SPLA's adherence to laws in all regions of the country. Government and NGO officials acknowledged that incidents of sex trafficking and forced labor of children associated with the SPLA may still occur. During the reporting period, militias known to harbor children among their ranks were integrated into the SPLA, though UNICEF reported that the groups were adequately vetted and that children were identified and removed prior to their militia's integration. Other armed militia groups in conflict with the government, including those allied to David Yau Yau in Jonglei state, recruited hundreds of children as young as 10-years-old throughout the year, at times through force. The Sudan People's Liberation Movement-North (SPLM-N), a Sudan-based group that was formerly aligned with the SPLA and that reportedly continued to receive support from the South Sudanese government, conducted periodic campaigns in which it forcibly recruited adults and children in refugee sites in South Sudanese territory, including in Yida, Unity state, Maban, and Upper Nile state. The SPLM-N reportedly used child soldiers in Sudan to fight against the Sudan Armed Forces and aligned militias. The Lord's Resistance Army (LRA) continued to harbor enslaved South Sudanese children in neighboring countries for use as cooks, porters, concubines, and combatants.

The Government of South Sudan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government continued implementation of its UN-backed action plan to eliminate the use of child soldiers in its armed forces, including through identifying and demobilizing 167 children from the SPLA and partnering with the UN to provide child protection training to military officers. Despite these measures, it failed to demonstrate overall increasing efforts to combat trafficking from the previous year. It did not hold SPLA officers criminally accountable for the unlawful recruitment and use of children, and UN reports indicate the SPLA used children in fighting during the civil conflict that began in December 2013. The government's efforts to address other forms of trafficking were also negligible, and it continued to indiscriminately arrest and imprison individuals for prostitution, including child sex trafficking victims. Therefore, South Sudan is placed on Tier 2 Watch List for a third consecutive year. South Sudan was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking and is devoting sufficient resources to implement that plan.

US State Dept Terrorism Report 2013

Overview: At the end of 2013, fighting broke out between rival political factions in South Sudan, resulting in the death of thousands and displacement of hundreds of thousands of people. Prior to the crisis, South Sudan expressed a commitment to countering terrorism, but suffered from multiple institutional weaknesses that impeded any counterterrorism efforts. The Lord's Resistance Army (LRA) remained a threat for communities in Western Equatoria and Western Bahr-el-Ghazal states, and new LRA attacks were reported in late 2013. South Sudan contributed to the AU Regional Task Force (AU-RTF) against the LRA, but many of its forces were redeployed at the end of 2013 in response to the political crisis.

Legislation, Law Enforcement, and Border Security: While dealing with multiple crises, South Sudan continued to have limited capacity to provide effective law enforcement and border security with respect to counterterrorism. Additionally, the border with Sudan remained disputed in several locations.

Countering the Financing of Terrorism: South Sudan is not a member of a Financial Action Task Force-style regional body. In August, South Sudan passed anti-money laundering/combating the financing of terrorism legislation. The country's capabilities to implement or enforce the law remained limited.

International Sanctions

UN Sanctions

Arms

The UN has imposed an arms embargo against South Sudan and there are asset freezes in place against certain individuals.

UN Sanctions

EU Sanctions

On 19 July 2011, the European Council imposed Council Decision 2011/423/CFSP which imposed sanctions on the new state of South Sudan (as well as concerning sanctions on Sudan. This Decision is published in the Official Journal of the European Union (L188 , 19.7.2011, p20).

The EU have subsequently issued implementing legislation in the form of Council Regulation (EU) No 1215/2011 which came into force on 25 November 2011.

US Sanctions

For further information - Fact Sheet Regarding Activities in the Republic of South Sudan

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	11
World Governance Indicator – Control of Corruption	0

Corruption and Government Transparency - Report by US State Department

South Sudan has laws, regulations and penalties to combat corruption, but there is almost a complete lack of enforcement, while considerable gaps exist in legislation. The government has yet to pass the Public Procurement and Petroleum Revenue Management Bills, both of which are critical legislative pieces to curb corruption. The RSS established the Anti-Corruption Commission, but the body lacks prosecutorial powers and sufficient resources to adequately pursue investigations. The Ministry of Justice is charged with prosecuting acts of corruption, but has consistently failed to do so. The government's auditor general has published condemning audits on public financial management (the last report was for fiscal year 2008), but no reported action was taken by the government to pursue investigations. The government is cooperating with the World Bank in the investigation of corruption in a large-scale procurement case, but progress has been slow. RSS President Salva Kiir Mayardit has publicly condemned corruption and committed his government to combating it, but few concrete results have been realized.

The country has not signed the UN Anticorruption Convention, is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and is not reported to be a participant in regional anti-corruption initiatives.

U.S. firms are keenly aware of corruption and many report they are careful to avoid engaging in corruption or the perception of doing so. However, they note that navigating the legal and bureaucratic process appears considerably longer and more complex than it is for less stringent firms. At least one U.S. firm is known to have explored opportunities in South Sudan but withdrew after suspecting it was entwined in a corruption scheme.

Corruption appears to be pervasive at all levels of government and society. Government officials of all ranks are reportedly engaged in corrupt acts. The regulatory system is poor or non-existent, and dispute settlement is weak and subject to influence.

Section 3 - Economy

Following several decades of civil war with Sudan, industry and infrastructure in landlocked South Sudan are severely underdeveloped and poverty is widespread. Subsistence agriculture provides a living for the vast majority of the population. Property rights are insecure and price signals are weak, because markets are not well organized. South Sudan has little infrastructure - approximately 250 of paved roads. Electricity is produced mostly by costly diesel generators and indoor plumbing and potable water are scarce. South Sudan depends largely on imports of goods, services, and capital - mainly from Uganda, Kenya and Sudan. Nevertheless, South Sudan does have abundant natural resources. At independence in 2011, South Sudan produced nearly three-fourths of former Sudan's total oil output of nearly a half million barrels per day. The government of South Sudan derives nearly 98% of its budget revenues from oil. Oil is exported through two pipelines that run to refineries and shipping facilities at Port Sudan on the Red Sea. The economy of South Sudan will remain linked to Sudan for some time, given the long lead time and great expense required to build another pipeline, should the government decide to do so. In January 2012 South Sudan suspended production of oil because of its dispute with Sudan over transshipment fees. This suspension lasted fifteen months and had a devastating impact on GDP, which declined by 48% in 2012. With the resumption of oil flows the economy rebounded strongly during the second half of calendar year 2013. This occurred in spite of the fact that oil production, at an average level of 222,000 barrels per day, was 40% lower compared with 2011, prior to the shutdown. GDP is estimated to have grown by about 25% in 2013. However, the outbreak of conflict on December 15, 2013 combined with a further reduction of oil exports, means that GDP growth forecasts for 2014 are being revised downwards again, and poverty and food insecurity are rising. South Sudan holds one of the richest agricultural areas in Africa with fertile soils and abundant water supplies. Currently the region supports 10-20 million head of cattle. South Sudan is currently burdened by considerable debt, accrued largely in 2012, based on rapidly accumulating arrears, and increased military spending. South Sudan has received more than $4 billion in foreign aid since 2005, largely from the UK, the US, Norway, and the Netherlands. Following independence, South Sudan's central bank issued a new currency, the South Sudanese Pound, allowing a short grace period for turning in the old currency. Annual inflation peaked at 79.5% in May 2012 but declined rapidly thereafter, to an average of 1.7% in 2013. Following the December 2013 outbreak of violence, inflation is on the rise again. Long-term challenges include diversifying the formal economy, alleviating poverty, maintaining macroeconomic stability, improving tax collection and financial management and improving the business environment.

Agriculture - products:

sorghum, maize, rice, millet, wheat, gum arabic, sugarcane, mangoes, papayas, bananas, sweet potatoes, sunflower, cotton, sesame, cassava (manioc), beans, peanuts; cattle, sheep

Section 4 - Investment Climate

Openness To, and Restrictions Upon, Foreign Investment

The government of the Republic of South Sudan (RSS) officially encourages foreign direct investment, and has made some progress in recent years to open the market to foreign companies. The U.S. government's long-standing sanctions against the Sudan were officially removed from applicability to newly independent South Sudan in December 2011, and senior RSS officials participated in a high-level international engagement conference in Washington, D.C., to help connect foreign investors with the RSS and South Sudanese private sector representatives. Until January 2012, oil production accounted for 98 percent of the government's revenues. The shutdown of oil production in late January 2012, due to a dispute with Sudan through which oil exports were transported by pipeline, radically reduced government revenue; tax and customs revenues, through better collection, have since increased to around 12 percent of the current government budget. The government is now looking to increase investment in non-oil sectors, including agriculture, mining, and teak wood exports.

The RSS enacted several major pieces of legislation governing investment since its independence from Sudan on July 9, 2011, and continues to use legislation passed during the country's semi-autonomous period, as part of Sudan, from January 9, 2005- July 8, 2011. Relevant key pieces of legislation penned since 2005 include the 2009 Investment Promotion Act, the 2011 Insolvency Act, the 2012 Imports and Exports Act, and the 2012 Companies Act. Under the 2009 Investment Promotion Act, foreign investors may own or control business organizations in any sector; however, South Sudan's Investment Authority Board of Directors is authorized to publish periodically a list limiting the sectors in which non-South Sudanese nationals are permitted to invest. There is a widespread misconception that non-South Sudanese nationals attempting to incorporate new businesses in South Sudan are required by law to have 31 percent South Sudanese ownership; this requirement does not appear in the Companies or Investment Promotion Acts. Under the 2012 Companies Act medium and large companies must have 31 percent South Sudanese ownership; small companies are "to be the domain of South Sudanese nationals only."

Despite RSS efforts to attract foreign investment, investors face an extremely challenging investment climate. According to the World Bank's 2011 *Doing Business* report, the economy of Juba, South Sudan's capital is ranked 159 among 183 economies on its "ease of doing business" scale. The legal framework governing investment and private enterprises remains underdeveloped. A new labor law, public procurement bill, and several pieces of legislation related to land ownership are either in the drafting stage or awaiting approval by the National Legislative Assembly. Laws and regulations that do exist are not always enforced and are not well-publicized. Domestic and foreign investors often have an incomplete understanding of existing laws.

Although the RSS is committed to judicial reform, the existing legal system is ineffective, underfunded, overburdened, and subject to executive interference. High-level government and military officials are often immune from prosecution in practice, and frequently interfere with court decisions. Parties in contract disputes are sometimes arrested and imprisoned until the party agrees to pay a certain sum of money, often without ever going to court and sometimes without being formally charged.

Other factors inhibiting investment in South Sudan include limited physical infrastructure and a lack of both skilled and unskilled labor. South Sudan, roughly the size of France, has fewer than 400 kilometers of paved roads, and large parts of the country are inaccessible during the rainy season (April through October). Despite the existence of three power plants, none of which are working at full capacity, the country is almost completely reliant on diesel-run generators for electricity. According to the 2008 census, 94 percent of young persons enter the labor market with no qualifications. The majority of South Sudanese work in non-wage jobs, often in the agricultural sector. The country's literacy rate is just 27 percent.

The RSS has been operating under austerity measures since April 2012, following the January 2012 shutdown of oil production, which previously accounted for 98 percent of government revenue. The loss of oil revenue has taken a toll on the economy: the market value of the South Sudanese Pound sank as low as 5.8 South Sudanese Pound (SSP) to 1 USD from the official rate of 2.96 SSP to 1 USD; that low has since rebounded to 4.2 SSP to 1 USD as of January 2013. Annual inflation stood at 25 percent in December 2012. RSS domestic and foreign currency reserves are running very low and the RSS, due to severe budgetary cuts, has ceased paying many basic operating costs. Failure by the government to pay for services is commonplace. Some private companies claim the government has reneged on or delayed payment for contracts in which work was undertaken. Government benefits, which account for up to 50 percent of employees' take-home pay, were drastically reduced in July 2012. The distribution of hard currency is tightly controlled by the government and limited to supporting the importation of food, medicine, fuel, and limited building materials. Many companies cite access to hard currency and convertibility of profits as major problems.

Organizations which rank countries in transparency and openness are just beginning to include newly-independent South Sudan in their analysis. The following chart lists the country's ranking in several of these indices.

Measure	Year	Index/Ranking
TI Corruption Index	N/A	Not Ranked
Heritage Economic Freedom	N/A	Not Ranked
World Bank Doing Business	2011	Juba ranked 159
MCC Gov't Effectiveness	FY13	-0.99 (4%)
MCC Rule of Law	FY13	-0.57 (7%)
MCC Control of Corruption	FY13	-0.77 (4%)
MCC Fiscal Policy	FY13	2.4 (94%)
MCC Trade Policy	FY13	N/A
MCC Regulatory Quality	FY13	-0.91 (9%)
MCC Business Start Up	FY13	N/A
MCC Land Rights Access	FY13	N/A

MCC Natural Resource Mgmt	FY13	71.1 (62%)

Conversion and Transfer Policies

The 2009 Investment Promotion Act guarantees “unconditional transferability in and out” of South Sudan “in freely convertible currency of capital for investment; payments in respect of loan servicing where foreign loans have been obtained; and the remittance of proceeds, net of all taxes and other statutory obligations, in the event of sale or liquidation of the enterprise.” However, many companies have trouble accessing foreign currency and repatriating profits. Foreign exchange market rules and regulations are highly restrictive. The January 2012 shutdown of oil production has resulted in a foreign currency shortfall, and South Sudan’s lack of any significant non-oil exports limits the inflow of hard currency. The Central Bank closely regulates which companies and traders are allocated U.S. dollars, making it hard for foreign investors to repatriate their locally generated income. At least one international company suspended operations in South Sudan in 2012, claiming that they were unable to convert their SSP profit to USD in order to cover operating expenses outside the country.

While the government does not engage in currency manipulation, exchange rate operations are highly inefficient. Foreign exchange is only available for fuel, food, medicine and limited building materials at the official rate of 2.96 South Sudanese Pounds to the USD, and is limited to approximately 16 million USD per week, facilitated through the banking system. The parallel market exchange rate fluctuated from 4.0 up to 5.8 SSP to the USD over the course of 2012.

Expropriation and Compensation

South Sudanese law prohibits nationalization of private enterprises “unless the expropriation is in the national interest for a public purpose.” Neither “national interest” nor “public purpose” is defined in the law. Any expropriation must be in accordance with due process and provide for “fair and adequate compensation,” as determined by the court.

There has been no known government expropriation of foreign-owned property in the private sector, and no indications that there may be such actions in the near future. However, government officials frequently pressure development partners to hand over assets at the end of programs. While some donor agreements call for the government to receive goods at the close-out of a project, assets have been seized by local government officials even in instances where it was not included in a formal agreement.

Dispute Settlement

According to South Sudan’s investment law, South Sudanese courts have jurisdiction over the resolution of business disputes. However, few commercial disputes are actually taken to court. The country’s legal framework is in flux following South Sudan’s independence, and currently includes some post-independence laws, Government of Southern Sudan laws passed when the country was a semi-autonomous part of Sudan, and Sudanese laws that have not yet been re-written. Courts are often understaffed and the existing staff are undertrained. According to a 2004 study, more than 90 percent of commercial disputes were settled in customary court.

Parties in commercial disputes, including U.S. citizens, have recently been arrested without official charge and held in prison until they agreed to pay the disputed amount. Court orders authorizing an individual's arrest are often written in Arabic and not translated, even though the official language of the courts is English. In 2012 a U.S. citizen was detained by the National Security Service, who attempted to take him to court in Juba, despite the fact that the individual's company's contract stipulated arbitration in the United States.

South Sudan's investment law allows the parties in a commercial dispute to jointly agree to use arbitration or other dispute resolution mechanisms. Legislation governing the specifics of private arbitration has not yet been passed. South Sudan became a member of the International Centre for the Settlement of Investment Disputes (ICSID) in April 2012.

Performance Requirements/Incentives

The government has designated 11 sectors as priorities for investment: agriculture and agribusiness; physical infrastructure; social infrastructure including schools, hospitals, water services, etc.; mining, quarrying, energy and electricity, petroleum and gas industries; prospecting of natural resources for economic use; forestry; medium to heavy manufacturing industries; transport, telecommunications, print and electronic media, and information communications technology; commercial banking, insurance, property management, and financial institutions; pharmaceutical, chemicals, and medicinal and surgical industries; and tourism and hotel industry development.

The government offers tax exemptions and concessions in machinery and equipment, and capital and net profits. The time period for tax exemptions is not laid out in the investment law, and further regulations defining the time period have not yet been published. Capital allowances range from 20 to 100 percent; deductible annual allowances range from 20 to 40 percent; and other depreciation allowances range from 8 to 20 percent. The law allows for duty and tax exemptions on all agricultural imports, including tools, equipment, machinery and tractors, pharmaceuticals, animal feed, and seeds.

Business owners are frequently unaware of investment incentives, and many claim they are not receiving the incentives laid out in the investment promotion act. For example, two foreign-owned companies who import and sell agricultural equipment noted frequent disputes with customs authorities over their tax-exempt status.

According to the 2012 Companies Act, companies with fewer than seven employees and meeting financial requirements laid out by the Minister of Commerce, Industry and Investment are "to be the domain of South Sudanese nationals only." Medium and large private companies are required to have at least 31 percent South Sudanese ownership.

There is an unofficial policy that at least 70-90 percent of employees in all companies must be South Sudanese. The issuance of work permits is frequently delayed due to the Ministry of Labor, Public Services and Human Resources Development's thorough scrutiny of all work permit applications to ensure the job could not be filled by a South Sudanese national. Many expatriates report being issued work permits that are shorter than the standard 12 month period.

The 2009 Investment Promotion Act lists several “types of projects favorable for priority areas,” including partnerships where South Sudanese citizens have at least a 30 percent stake and projects which create jobs for South Sudanese. Projects which guarantee re-investment of at least 20 percent of after-tax profits in South Sudan are also given priority.

There are several local content requirements in the petroleum sector. The 2012 Petroleum Law requires businesses, including contractors and sub-contractors, to acquire materials, equipment, machinery and consumer goods produced on the local market, so long as they are of the same or “approximately the same” quality, available for sale and delivery in a timely manner, and no more than 10 percent more expensive than the foreign-produced equivalent. The law also requires companies to acquire national services so long as they are similar to those available on the international market, and the prices are no more than ten percent higher. Businesses are required to provide the Ministry of Petroleum and Mining local content plans detailing local recruitment, employment and training and the transfer of skills, knowledge, and competence to South Sudanese.

Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity, as well as freely to establish, acquire and dispose of interests in business enterprises. South Sudanese businesses are given priority in several areas, including micro-enterprises, postal services, car hire and taxi operations, public relations, retail, security services, and the cooperative services. Under the investment law, the government of South Sudan leases land to foreign investors for limited periods of time, generally not to exceed 30-60 years, with the possibility of renewal. In the case of leases for mining or quarrying, the lease shall not exceed the life of the mine or quarry. Under the 2009 Land Act, non-citizens are not allowed to own land in South Sudan.

Protection of Property Rights

South Sudan’s government intends to undertake comprehensive land reform, but the project stalled in 2011 and did not progress in 2012. Laws on mortgages and the registration of titles have not been drafted.

Under the Investment Act, the RSS or local authorities will provide land for investments in the priority sectors listed in the “Performance Requirements” section above. While the 2009 Land Act reaffirms that non-citizens can access land for investment purposes, there are currently no clear regulations governing how a business acquires land. Currently, some businesses lease land from the government, while others lease land directly from local communities. Under the Land Act, investment in land acquired from local communities must contribute “economically and socially to the development of the local community.” Businesses will often sign a memorandum of understanding with the local communities in which they agree to employ locals or invest in social services in exchange for use of the land.

Ownership of land is often unclear, with communities and government both claiming the same property. In some cases, multiple individuals hold registration certificates demonstrating sole ownership of the same piece of land.

While the investment law includes an article on the protection of intellectual property rights, in fact laws on trademarks, copyrights, and patents have not yet been passed.

South Sudan is not a member of the WTO or WIPO.

Transparency of the Regulatory System

Investors in South Sudan often lack access to basic information on how to establish a business. The private sector is governed by a mix of laws from Sudan, the pre-independence semi-autonomous Government of Southern Sudan, and the independent Republic of South Sudan. The National Legislative Assembly (NLA) has made substantial progress in passing new laws that will contribute to a more transparent regulatory system, including the 2012 Companies Act and the 2012 Banking Act. However, several key pieces of legislation are still under review by the NLA or in the drafting stage with the appropriate line ministry. Laws governing customs, imports and exports, leasing and mortgaging, procurement, and labor have not yet been passed.

Bureaucratic procedures for opening a business are long and cumbersome, particularly for foreigners trying to navigate the system without the assistance of a well-connected national. Government officials claim registering a business and gathering all of the necessary certificates to begin operations should take less than one week; however, some foreign companies report spending months registering, applying for work permits, and going from ministry to ministry to gather the necessary licenses and certificates. Fee schedules for the licenses and certificates necessary to operate a business are often difficult to find and not always adhered to. Companies are required to go through a lawyer when registering with the business registry at the Ministry of Justice, a requirement that many say adds unnecessary time and cost to the process. With the support of the World Bank’s International Finance Corporation (IFC), the Ministry of Commerce, Trade, and Investment officially opened a one-stop shop to streamline the process of establishing a business in May 2012. As of the end of the year, the shop was not yet operational.

Some companies complained of a duplicative and opaque tax system. Companies also complained that tax exemptions were applied unevenly. Tax incentives laid out in the investment act are unclear, and many businesses are unaware of their existence.

The government procurement process is unclear, and many business owners commented that tenders are not awarded to the best or least expensive bidder, but are awarded based on personal connections.

Efficient Capital Markets and Portfolio Investment

South Sudan’s financial system is small and offers few financial products. There are up to 19 banks and about 70 foreign exchange bureaus operating in South Sudan, the largest four of which hold approximately 70% of all assets. It is difficult for foreign investors to get credit on the local market, due to the lack of reliable figures or audited accounts, absence of a credit reference bureau, and failure to document land ownership properly. Banks are also unwilling to lend due to the lack of adequate laws to protect lenders. Officials of one major bank said it lends only one percent of its assets.

The government's January 2012 decision to suspend oil production has led to a hard currency shortage. Banks continue to issue letters of credit to importers of food, fuel, medicine, and limited construction materials, but the government controls who receives letters of credit and the Central Bank allocates just 1 million USD per week to each of the private banks (and 50 thousand USD licensed forex bureaus). With considerable deposits of local currency, banks reported there is sufficient liquidity to enter and exit sizeable positions.

Competition from State-Owned Enterprises (SOEs)

The national oil company Nilepet is the only explicitly state-owned enterprise in South Sudan. It is the technical and operational branch of the Ministry of Mining and Petroleum. Nilepet took over Sudan's national oil company's shares in six exploration and petroleum sharing agreements in South Sudan at the time of the country's independence in 2011. The petroleum revenue management bill, which will govern how Nilepet's profits are invested, was still under review by the National Legislative Assembly at the end of 2012.

Domestic private businesses are often owned at least in part by government or military officials, and many officials have partnered with foreigners incorporating a company partially as a result of a common misconception that businesses established in South Sudan by expatriates must be 31 percent locally owned. Companies owned in part or full by government or military officials are anecdotally more likely to win government contracts, regardless of the quality or price associated with a bid.

Political Violence

South Sudan's independence from Sudan came after many years of civil war between forces in the south and the Sudanese government in Khartoum, and the two countries have yet to resolve disputes over border demarcation, disputed and claimed areas, a demilitarized zone, Abyei, and other issues. In 2012 there were skirmishes between Sudanese and South Sudanese forces in the disputed border regions between the two countries, which may continue. In April 2012 the Sudan Armed Forces (SAF) aimed aerial bombardments at oil wells and production facilities in Unity State on the border with Sudan. Ongoing fighting between the SAF and forces united with the RSS's official army, the Sudan People's Liberation Army (SPLA), throughout early 2012 damaged oil infrastructure in the area.

In addition, there are ongoing clashes between the SPLA and rebel militia groups opposed to the government in Juba in South Sudan's largest state of Jonglei. There are also sporadic clashes between ethnic groups in Jonglei, Unity, Warrap, Upper Nile, Western Equatoria, Lakes, and Western Bahr el Ghazal States. It is impossible at this time to predict the level of civil disturbances that can be expected in the future, but conflict in several parts of the country will almost certainly continue.

Bilateral Investment Agreements

According to the U.N. Conference on Trade and Development (UNCTAD) website, South Sudan has not yet entered into any bilateral investment treaties.

Foreign Trade Zones/Free Ports

There are currently no duty-free import zones in South Sudan.

Foreign Direct Investment Statistics

There are currently no statistics available on Foreign Direct Investment into South Sudan.

The majority of foreign investment is in the petroleum sector. Major shareholders in the joint operating companies operating in active oil fields include the Chinese National Petroleum Company (CNPC), Malaysian company PETRONAS, and the Indian company ONGC. French oil company Total and Kuwaiti company Kufpec have an exploration and production sharing agreement in Block B, a geographic area covering most of Jonglei state and parts of several other states, but have not yet been allowed to start operations. The Ministry of Petroleum and Mining recently signed agreements with U.S. and Russian companies to build two small refineries.

Other international investors include South African brewing company SABMiller; several Kenyan insurance companies; South African, Kenyan, and Ethiopian banks; and foreign-owned importers of agricultural and construction equipment. Several restaurants and hotels in Juba are owned by Ethiopians, Eritreans, Kenyans, and Ugandans.

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

International organization participation:

AU, IBRD, ICAO, IDA, IFAD, IFC, IFRCS, ILO, IMF, Interpol, IOM, ITU, MIGA, UN, UNCTAD, UNESCO, UPU

Section 6 - Tax

Exchange control

For further information - http://www.goss.org/

Treaty and non-treaty withholding tax rates

For further information - http://www.goss.org/

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

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

Section 3 - Economy

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

(Source: CIA World Factbook)

Section 4 - Foreign Investment

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

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

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

Section 6 - Tax

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

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

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