

Swaziland

RISK & COMPLIANCE REPORT

DATE: January 2017

Executive Summary - Swaziland	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions
Medium Risk Areas:	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>Major Investment Areas:</p> <p>Agriculture - products: sugarcane, cotton, corn, tobacco, rice, citrus, pineapples, sorghum, peanuts; cattle, goats, sheep</p> <p>Industries: coal, wood pulp, sugar, soft drink concentrates, textiles and apparel</p> <p>Exports - commodities: soft drink concentrates, sugar, wood pulp, cotton yarn, refrigerators, citrus and canned fruit</p> <p>Imports - commodities: motor vehicles, machinery, transport equipment, foodstuffs, petroleum products, chemicals</p>	
<p>Investment Restrictions:</p> <p>Foreign investors are theoretically free to invest in all sectors of the Swazi economy, aside from sectors controlled by Swazi parastatals, such as water services. Other areas in which the Swazi government disallows investment are in the manufacturing of arms, chemical and biological weapons, radioactive materials, explosives, and manufacturing involving hazardous waste treatment or disposal.</p>	

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Section 1 - Background

Autonomy for the Swazis of southern Africa was guaranteed by the British in the late 19th century; independence was granted in 1968. Student and labor unrest during the 1990s pressured King MSWATI III, Africa's last absolute monarch, to grudgingly allow political reform and greater democracy, although he has backslid on these promises in recent years. A constitution came into effect in 2006, but the legal status of political parties remains unclear. The African United Democratic Party tried unsuccessfully to register as an official political party in mid 2006. Talks over the constitution broke down between the government and progressive groups in 2007. Swaziland recently surpassed Botswana as the country with the world's highest known HIV/AIDS prevalence rate.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Swaziland 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 Swaziland was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Swaziland was deemed Compliant for 1 and Largely Compliant for 0 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

This mutual evaluation report summarises the anti-money laundering and combating of financing of terrorism (AML/CFT) measures in the Kingdom of Swaziland as observed during the onsite visit which took place on 15 – 26 February 2010 and two months thereafter. The report describes and analyses the measures in place and provides recommendations on how certain aspects of the AML/CFT system could be strengthened. It also sets out the levels of compliance obtained by the Kingdom of Swaziland with the Financial Action Task Force (FATF) 40 Recommendations on money laundering and 9 Special Recommendation on terrorist financing, (See the attached table on the Ratings of Compliance with the FATF Recommendations). The Kingdom of Swaziland is a small landlocked developing country which is bordered on the north, west and south by the Republic of South Africa and on the east by the Republic of Mozambique. It has a small-export oriented diversified economy which is closely linked to the South African economy. The country is part of a monetary union with the Republic of Namibia, the Republic of South Africa and the Kingdom of Lesotho. The South African currency (the Rand) circulates freely on par with these countries' national currencies within the union.

The financial sector in the Kingdom of Swaziland is small and dominated by subsidiaries of South African financial institutions. The dominant financial activity is commercial banking in which three of the four banks are subsidiaries of South African banks. The economy is predominantly cash-based. In order to reduce reliance on cash transactions, the Government of Swaziland in partnership with the banking sector is putting in place policy framework and infrastructure to promote access to financial services especially by low income earners.

The small size and proximity of the country to major cities in Mozambique and South Africa makes it a strategic transit country for illegal operations into these countries and Southern Africa at large. The major generators of proceeds include trafficking in human beings and drugs, counterfeiting of goods and currency, fraudulent cross-border bank transfers, tax and customs evasion, forgery, and theft. Proceeds generated through corrupt activities are also a major concern. As a result of the geographical location and economic profile of the country, the major crimes generating proceeds have manifestations of organised cross-border operations with the illicit funds invested within the monetary union, also known as the Common Monetary Area (CMA). The Kingdom of Swaziland is committed to addressing these challenges through various initiatives such as the promotion of law enforcement coordination and cooperation within and outside of the country, setting up of institutions to promote good governance and transparency in both public and private sector spheres. As for risk, money laundering is considered to be higher than terrorist financing and the authorities expect the latter to remain low for the foreseeable future.

Although the Kingdom of Swaziland started implementing AML measures in 2001 and later financing of terrorism in 2008, the development of these measures remain at infancy stage owing mainly to inadequate structures and resources to drive the process. The country is however making significant efforts to develop appropriate structures through changes to the national AML/CFT framework.

US Department of State Money Laundering assessment (INCSR)

Swaziland 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 Kingdom of Swaziland is not considered a regional financial center. The financial sector in the Kingdom is small and dominated by subsidiaries of South African financial institutions. The small size of the country, the limited capacity of its police and financial regulators, and its proximity to major cities in Mozambique and South Africa make it a transit country for illegal operations in those countries and, to some extent, for the rest of the southern African region. Large sums of money are moved via cross-border transactions involving banks, casinos, investment companies, motor vehicle dealers, and savings and credit cooperatives. Proceeds from the sale or trade of marijuana, a large illicit export, are laundered in Swaziland. Income from public corruption, particularly in public procurement, is also laundered in Swaziland. Cash gained from illegal activities is sometimes used to buy commercial goods and to build houses on non-titled land.

There is a significant black market for smuggled consumer goods, such as cigarettes, liquor, and pirated CDs and DVDs, transited across the porous borders of Mozambique, South Africa, and Swaziland. There is a general belief that trade-based money laundering and value transfer exists in Swaziland. Some traders transact in cash only and not through banks. Human trafficking is widespread. Swazi officials believe the Kingdom to be at little risk of terrorism financing.

The Common Monetary Area provides a free flow of funds among South Africa, Swaziland, Lesotho, and Namibia, with no exchange controls. Cash smuggling reports are informally shared on the basis of reciprocity among the relevant host government agencies.

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: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES KYC covered entities: Banks; asset managers; securities brokers and dealers; insurance agents and companies; currency brokers and exchanges; auditors, accountants, lawyers, and real estate agents; gaming entities and lotteries; and motor vehicle dealers

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 50 in 2015

Number of CTRs received and time frame: Not applicable

STR covered entities: Banks; asset managers; securities brokers and dealers; insurance agents and companies; currency brokers and exchanges; auditors, accountants, lawyers, and real estate agents; gaming entities and lotteries; and motor vehicle dealers

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 3 in 2015

Convictions: 3 in 2015

RECORDS EXCHANGE MECHANISM:

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

With other governments/jurisdictions: YES

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

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

Swaziland has taken several steps to establish an AML/CFT regime. In July 2015, the Financial Intelligence Unit (FIU) became an independent body governed by a board of directors. In order to demonstrate its autonomy, the FIU moved to its own office space. The FIU continues to expand; currently, it is recruiting staff and plans to hire 23 people. The positions include information technology specialists, finance, human resources, and compliance officers, as well as analysts. The new hires are expected to start in January 2016. ESAAMLG will assist with training the newly recruited FIU staff.

Implementation of cash transaction limits that require reporting to the FIU is ongoing. In addition, the AML task force supports a change in the law to require the reporting of cross-border movements of cash. The FIU has already set up two control points to monitor this reporting, one at the airport and another at the Oshoek border post with South Africa. Border posts with Mozambique are fairly well controlled.

The government has not yet passed the legislation necessary to amend the Money Laundering Act in order to make it compatible with the regulations already in place.

On September 3, 2015, Swaziland launched a Western Union international money transfer service in collaboration with Interchange, a leading foreign exchange service provider in the country.

The Royal Swaziland Police Service (RSPS) and the Kingdom's Anti-Corruption Commission (ACC) are the two main law enforcement agencies charged with investigating money laundering offenses. The Swaziland Revenue Authority (SRA) is involved in the reporting and investigation of certain financial crimes. The RSPS is charged with investigating terrorism financing offenses. Significant weaknesses exist in the capacity to investigate and collect evidence for money laundering crimes, which results in prosecutors' inability to pursue a case. According to Swazi officials, RSPS officers require additional training and capacity to be adequately prepared to investigate both money laundering and terrorism financing cases. Reports of money laundering cases are increasing, but some cases take a long time or do not make it to court because of a lack of resources.

The government should take steps to fully implement the requirements of UNSCRs 1267 and 1373, increase the capacity of police and investigative agencies to improve the effectiveness of money laundering investigations and prosecutions, and work to improve the production and reporting of relevant AML/CFT statistics. Swaziland should continue to develop cooperation among the RSPS, SRA, and the FIU to increase the number of successful prosecutions.

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

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

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

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

EU White list of Equivalent Jurisdictions

Swaziland 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

Swaziland is not considered to be an Offshore Financial Centre

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

Swaziland is classified a Tier 2 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.

Swaziland is a source, destination, and transit country for men, women, and children who are subjected to sex trafficking, domestic servitude, and forced labor in agriculture. Swazi girls, particularly orphans, are subjected to sex trafficking and domestic servitude primarily in the cities of Mbabane and Manzini; at truck stops, bars, and brothels in Swaziland; and in South Africa and Mozambique. Swazi chiefs may coerce children and adults—through threats and intimidation—to work for the king. Swazi boys and foreign children are forced to labor in commercial agriculture, including cattle herding, and market vending within the country. In one case, which remains ongoing from the previous reporting period, a young Nigerian woman and two Mozambican boys were subjected to forced labor in market vending. Traffickers reportedly force Mozambican women into prostitution in Swaziland, or transit Swaziland with their victims en route to South Africa. Mozambican boys migrate to Swaziland for work washing cars, herding livestock, and portering; some of these boys subsequently become victims of forced labor. Reports suggest labor brokers fraudulently recruit and charge excessive fees to Swazi nationals for work in South African mines—means often used to facilitate trafficking crimes. Swazi men in border communities are recruited for forced labor in South Africa's timber industry. Traffickers utilize Swaziland as a transit country for transporting foreign victims from beyond the region to South Africa for forced labor. Some Swazi women are forced into prostitution in South Africa and Mozambique after voluntarily migrating in search of work.

The Government of Swaziland does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the year, the government provided the equivalent of approximately \$1,000 to a victim assistance fund and secured shelter for at least one trafficking victim; these victim protection measures represent progress from previous years, when adequate victim protection was a serious concern. The government continued its prosecution of two suspected trafficking offenders. Although it failed to identify or investigate cases involving internal trafficking, the government cooperated with South African law enforcement in the investigation of two potential trafficking cases and assisted in the repatriation of two Swazi nationals. The anti-trafficking taskforce and its secretariat continued to effectively guide anti-trafficking efforts in 2013—most evident in its launching of a national strategic framework and action plan in July 2013.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	43
World Governance Indicator – Control of Corruption	48

Corruption and Government Transparency - Report by US State Department

The Prevention of Corruption Act came into effect and established an Anti-Corruption Commission in 2007. The Minister of Finance in his budget speech of 2014 referred to corruption as a problem in Swaziland. He recognized that public accountability requires the active participation of all sectors of society, but Government must take prime responsibility.

To enhance the fight against corruption in Swaziland the Minister allocated E20.2 million (approximately \$2 million) to the Director of Public Prosecutions and the Anti-Corruption Commission (ACC). Government has also provided E8 million (approximately \$800,000) to the Financial Intelligence Unit (FIU) to continue implementing the Money Laundering and Terrorism (Prevention) Act of 2011. FIU will, among other activities, embark on public awareness campaigns to sensitize the country on the offences and consequences of money laundering and financing of terrorism.

Corruption is particularly prevalent in government procurement. Parliament passed the Procurement Act in 2011 whose aim is to provide regulation and control practice in respect of public procurement. Giving or receiving a bribe is illegal. A convicted person faces a maximum of a 100,000 emalangeni (approximately \$10,000) fine or ten years imprisonment. A convicted law enforcement officer or public prosecutor faces a maximum fine of 200,000 emalangeni (approximately \$20,000) or twenty years in prison. Foreign and domestic businesses have indicated that corruption and bribery requests impact profits, contracts and investment decisions for their companies.

Swaziland is a signatory of the UN Anti-Corruption Convention, African Union Convention on Preventing and Combating Corruption and Related Offences, and the SADC Protocol against Corruption. Swaziland has not ratified the UN Anti-Corruption Convention. Swaziland is not a signatory to the OECD Convention on Combating Bribery.

Section 3 - Economy

Surrounded by South Africa, except for a short border with Mozambique, Swaziland depends heavily on South Africa from which it receives more than 90% of its imports and to which it sends 60% of its exports. Swaziland's currency is pegged to the South African rand, effectively subsuming Swaziland's monetary policy to South Africa. The government is heavily dependent on customs duties from the Southern African Customs Union (SACU), and worker remittances from South Africa supplement domestically earned income. Subsistence agriculture employs approximately 70% of the population. The manufacturing sector has diversified since the mid-1980s. Sugar and wood pulp were major foreign exchange earners; however, the wood pulp producer closed in January 2010, and sugar is now the main export earner. Mining has declined in importance in recent years with only coal and quarry stone mines remaining active. Customs revenues plummeted due to the global economic crisis and a drop in South African imports. The resulting decline in revenue has pushed the country into a fiscal crisis. Swaziland is looking to other countries, including South Africa, for assistance, but continues to struggle to meet its monthly payroll and fund government programs. With an estimated 40% unemployment rate, Swaziland's need to increase the number and size of small and medium enterprises and attract foreign direct investment is acute. Overgrazing, soil depletion, drought, and floods persist as problems for the future. More than one-fourth of the population needed emergency food aid in 2006-07 because of drought, and more than one-quarter of the adult population has been infected by HIV/AIDS, as of 2013.

Agriculture - products:

sugarcane, cotton, corn, tobacco, rice, citrus, pineapples, sorghum, peanuts; cattle, goats, sheep

Industries:

coal, wood pulp, sugar, soft drink concentrates, textiles and apparel

Exports - commodities:

soft drink concentrates, sugar, wood pulp, cotton yarn, refrigerators, citrus and canned fruit

Imports - commodities:

motor vehicles, machinery, transport equipment, foodstuffs, petroleum products, chemicals

Banking

The Central Bank of Swaziland is the monetary authority responsible for management of the country's foreign exchange reserves, administration of exchange controls, and regulation of financial institutions.

There are four commercial banks operating in Swaziland: First National Bank of Swaziland, NedBank, SwaziBank, and Standard Bank. The government-owned Swaziland Development and Savings Bank went bankrupt due to millions of dollars of unpaid loans in June 1995 and is now operating, although the Swaziland Government in its 2010/2011 Fiscal Adjustment Roadmap listed the bank as one of the institutions that will be privatized.

Each of the operating banks has at least two branches. Normal banking facilities are provided at all four banks, and interest rates on borrowing are below those in South Africa.

Stock Exchange

Swaziland has a small stock exchange, known as the Swaziland Stock Exchange, with six companies currently trading two types of shares, equity shares and bonds. At present, there is no effective regulatory system established to encourage portfolio investment, but to strengthen the regulation of such investment, government passed the Securities Act on December 17, 2010. The primary aim of this act is to facilitate and develop an orderly, fair and efficient capital market in the country.

Executive Summary

The Government of the Kingdom of Swaziland views foreign investment as a means to drive economic growth. The government states its intention to develop and improve investment and trade policies in order to facilitate the ease of doing business in the country, but the pace of reforming the business climate is slow. Swaziland launched an Investor Roadmap in 2005, which details the procedural, administrative and regulatory barriers that hinder investment in the country and recommends regulatory reforms to improve the country's competitiveness. Implementation of the Investor Roadmap was re-launched in 2012 and is slowly progressing.

State owned enterprises and the royal family's private trust are invested in many industries and distort the economy through their influence. Virtually all large scale investments in Swaziland involve, either by law or by custom, the participation of the government and King Mswati III as a partner. Public sector and royal family involvement in the economy discourages private investment and encourages monopolistic behavior driving up prices and reducing competitiveness of the country. In addition, Swaziland's land tenure system, where the majority of usable land remains the property of the King "in trust for the Swazi nation," discourages long-term investment in commercial real estate and agriculture.

Government has prioritized the renewable energy sector and is currently crafting policy to attract private investment. Swaziland's demand for electricity is continuing to rise and the country imports 80 percent of its power from South Africa and Mozambique. A developed renewable energy sector in Swaziland would make the energy supply more reliable and create domestic employment. In the long term, renewable energy would also have environmental benefits provide energy self-sufficiency for the country.

Swaziland is continuing to recover from the 2012 fiscal crisis that began in 2010 after a sharp decline in revenue from the Southern African Customs Union (SACU), on which more than fifty percent of the government budget depends. In 2012 the IMF had suspended its engagement with Swaziland because of the government's lack of commitment to reform the public sector and reduce the cost of public sector wages. The African Development Bank also suspended its budgetary assistance.

Swaziland's poor human rights and labor rights record has jeopardized its access to export markets and to donor support. In 2014, Swaziland risks losing its duty free access to the U.S. market under the African Growth and Opportunity Act (AGOA) due to continued infringements on internationally recognized workers' rights. Swaziland also remains ineligible for Millennium Challenge Corporation (MCC) support due to its poor rankings on political and civil liberties by international non-governmental organizations.

Fortunately, improved SACU revenues in 2014 and increased domestic revenue collection have reduced the likelihood of a financial crisis in the near term. However, Swaziland's gross domestic product (GDP) growth is the slowest in the Southern African Development Community (SADC) region.

1. Openness To, and Restrictions Upon, Foreign Investment

The Government of the Kingdom of Swaziland (GKOS) regards foreign investment as a means to drive the country's economic growth, obtain access to foreign markets for its exports, and improve international competitiveness. However, the government and the royal family also exercise considerable influence in the private sector through state owned enterprises that compete with private companies and through government and the royal family's substantial shareholding in private corporations. All business sectors are open to foreign investment although government approval is needed. The Swaziland Investment Promotion Authority (SIPA) is charged with designing and implementing strategies for attracting desired foreign investors and is working to become a one-stop-shop for foreign investors. The GKOS continues its attempts to facilitate the ease of doing business in the country, but the pace of improvement has failed to keep up with other countries in the region.

Incentives to invest in Swaziland include repatriation of profits, fully-serviced industrial sites, provision of purpose-built factory shells at competitive rates, and exemption from duty on raw materials for manufacture goods to be exported outside SACU. Financial incentives for all investors also include generous tax allowances and deductions for new enterprises, including a 10-year exemption from withholding tax on dividends and a low corporate tax of 10% for approved investment projects. New investors also enjoy duty-free import of machinery and equipment.

Swaziland is slowly implementing an Investor Roadmap, a comprehensive strategy originally drafted in 2005 and re-launched by King Mswati III in 2012, to identify and address barriers to investment in Swaziland. The objectives are to improve the pace and efficiency of trade across borders; reduce the time and paperwork required to register a company and secure work permits; strengthen legal protection for investors, and improve the tax regime - including providing for online filing for company registration. It aims to increase transparency of labor inspections and access to finance for small and medium-sized enterprises.

Despite some progress in improving the investment environment, some distinct challenges remain. The monopolistic nature of Swaziland's telecommunications sector results in high prices and sometimes unreliable mobile phone services. Internet service, provided largely by the Swaziland Post and Telecommunications Corporation (SPTC), a state owned operator which also acts as the industry regulator, is also costly, slow, and unreliable.

The majority of land in Swaziland is held in trust by the King, cannot be titled, and is referred to as Swazi Nation Land. The Swazi constitution bars ownership of land by foreign entities unless ownership was attained before the promulgation of the Constitution on February 8, 2006. However the constitution also states that this provision "may not be used to undermine or frustrate an existing or new legitimate business undertaking of which land is a significant factor or base." Foreign companies looking to own land must attain approval from the Land Board, a sometimes opaque and lengthy process that the royal family exercises direct influence over.

Swaziland has a dual-legal system, and most investments are effected through and governed by Roman-Dutch law. Companies subjected to customary law, such as a transaction involving Swazi Nation Land which is controlled by the King, should be aware that they may not be able to seek resolution within the court system.

The International Monetary Fund (IMF) has advised the Swaziland Government to privatize state owned businesses, particularly the telecommunications sector and the electricity sector. For the telecommunications sector two pieces of legislation which provide necessary legal frameworks for improved regulation of the sector were finally passed as law in 2013. These are the Swaziland Communications Commission Act and the Electronic Communications Act which came into effect on July 31, 2013. The Swaziland Communications Commission Act's objective is to establish a Swaziland Communications Commission which will regulate and supervise the operation of electronic communications networks and the provision of electronic communications services in Swaziland, including the regulation of data protection in electronic communications. The Act also seeks to transfer the regulatory powers and functions of the SPTC relating to communications, as provided under the Swaziland Posts and Telecommunications Act, 1983, to the Commission. It will also transfer the regulatory powers and functions of the Swaziland Television Authority, as provided under the Swaziland Television Authority Act, 1983, to the Commission. The Electronic Communications Act's objective is to develop and regulate the electronic communications networks and services in Swaziland. A regulatory board, the Swaziland Communications Commission, was established in September 2013. The regulatory powers and functions of the SPTC have now been transferred to the Commission. Again in 2013, government started engaging on drafting a law on cyber security. This is done with the advice of SADC.

The National Development Strategy of Swaziland 1997 highlights that industrial development is an engine for economic growth and development. It states that there is an urgent need to formulate an appropriate and effective National Industrial Development Policy and Strategy with the objective of diversifying the industrial sector of Swaziland. Maximization of value addition in agricultural and mining products is one area for industrial development that economists have identified as promising for the country.

Currently, Swaziland's manufacturing largely consists of agriculture based value-adding products like (FOD) canned fruit and (FOR) forestry products. Swaziland also is home to a Coca Cola concentrate plant for Southern Africa. Other products are confectionaries, meat products, sugar, and ethanol. The textile sector was once exporting over \$100 million under AGOA, but now exports under \$50 million and continues to decline as measured by total revenues.

In Swaziland, all mergers and acquisitions are subject to screening and approval of the Swaziland Competition Commission regardless of size pursuant to the Competition Commission Act of 2007. The Competition Commission reviews investment and its effect on specific industries, improvement in the employment of people and the ability of small businesses to be competitive.

Renewable energy production is a priority for the Swazi government. Swaziland gets a bulk of its electricity from South Africa and Mozambique (80%). With both South Africa and Mozambique experiencing electricity shortages, Swaziland is working on producing its own energy using renewable energy. The government is developing a Renewable Energy and Independent Power Producers Policy with the hope of incentivizing investors in this sector.

Any company wishing to invest in Swaziland must adopt articles of incorporation or association. Investors are screened for credit worthiness, business ethics, and criminal records. If investors bring external funding, there is a requirement for further screening.

TABLE 1: The following chart summarizes several well-regarded indices and rankings

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	82 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	82 of 177	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	123 of 189	http://doingbusiness.org/rankings
Global Innovation Index	2013	104 of 142	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 2,860	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

TABLE 1B - Scorecards: 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

All capital transfers into Swaziland outside the Common Monetary Area (CMA) require prior approval of the Central Bank of Swaziland to avoid problems in the subsequent repatriation of interest, dividends, profits and other income accrued. Otherwise there are no restrictions placed on the transfers.

There is a straightforward process of obtaining foreign currency. A resident requiring currency other than Swaziland Emalangeni (E) or South African Rand (which are accepted as legal tender with the exchange rate on a par with Emalangeni) for permissible purposes must apply through an authorized dealer and a resident who acquires foreign currency must sell it to an authorized dealer for the local currency within ninety day. No person is permitted to hold or deal in foreign currency other than an authorized dealer. Authorized dealers in Swaziland are the First National Bank of Swaziland (FNB), Nedbank, Standard Bank, and Swazi Bank.

There are no limitations on the inflow or outflow of funds for remittances. Dividends derived from current trading profits are freely transferable on submission of documentation (including latest annual financial statements of the company concerned), subject to provision for the non-resident shareholders' tax of 15 percent. Local credit facilities may not be utilized for paying dividends. The average delay period for remitting investments is dependent on the mode for remitting funds. For example SWIFT transfers average a week, while electronic transfers take less than a week.

3. Expropriation and Compensation

There have been no known cases of a foreign owned business being expropriated. Swaziland's land tenure system can be confusing for investors. Approximately sixty percent of land is Swazi Nation Land, land held by the monarchy in trust for the people of Swaziland. Control over use of Swazi Nation Land is delegated to local chiefs. Settlement of disputes regarding traditionally held land can take years. Legality of land leases is sometimes unclear and uncertainty exists as to the details of land ownership rights. Although not common, there have been cases of 99-year leases on Swaziland Nation land. Clear titles exist for non-Swazi Nation Land, generally located in urban areas. There are reported cases of land disputes between foreign businesses operating on Swazi Nation Land and traditional authorities.

4. Dispute Settlement

Swaziland has a dual legal system consisting of the Roman-Dutch law and customary law, or "Swazi law and custom". This parallel system can be confusing and has presented problems for foreign-owned businesses. In general, Swazi courts do enforce property and contractual rights.

The legal system has a Western-style court system in which the Industrial Court hears industrial relations matters. The Industrial Relations Act of 2000 created the Conciliation, Mediation and Arbitration Commission (CMAC) to resolve employer-employee disputes. CMAC is a competent and well-regarded institution, albeit under-funded and under-capacitated.

According to the Constitution of Swaziland the Judiciary is independent. But there have been cases where government officials have failed to recognize court judgments, and the Swazi public generally regards the courts as partisan in favor of the government. Judgments of foreign courts are respected.

Swaziland's bankruptcy law, the Insolvency Act of 1955, is silent on the currency used in monetary judgments; however, international companies doing business in Swaziland can include the currency to be used in their Memorandum of Agreement.

The Western style court system has jurisdiction over the property of a person who has ordinarily resided in or carried on business for 12 months in Swaziland before lodging of the petition. In addition Swaziland's traditional courts, with the King as supreme authority, are available for dispute settlement. Swazi employees have brought grievances against foreign employers to these traditional courts. Such disputes, however, can be transferred to the formal court system at the option of the foreign employer/investor. Most investor disputes are employee-related. Official government intervention/arbitration is available upon request, but most investment disputes are handled within the judiciary system, usually via the Industrial Relations Court. The court process can be very slow and often takes up to one year to resolve if there is no out of court settlement or successful mediation.

The Swaziland Government accepts binding international arbitration of investment disputes between foreign investors and the state. Any agreement with international investors/parties includes a clause stating where arbitration will take place and which laws will apply.

Swaziland is a member of the International Centre for the Settlement of Investment Dispute (ICSID) although there is no specific legislation providing for enforcement of ICSID awards.

- Law Society of Swaziland,
- 2nd Floor, High Court Building,
- P.O. Box 512, Mbabane

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- Email: lawsociety@swazi.net
- Website: <http://www.swazilii.org/content/law-society-swaziland>
- Messrs Cloete, Henwood Associated
- Attorneys, Commercial and Competitive Law
- Practitioners and Trade Mark Agents
- 1st Floor Ellerines Building
- Swazi Plaza, Mbabane
- P.O. Box A972 Swazi Plaza H101

- Tel.: +268-2404-3124
- Email: ejh@triplec.co.sz

5. Performance Requirements and Investment Incentives

There are two performance requirements that may affect foreign business in Swaziland. First, Swazi government policy, enforced through the Ministry of Labour and Social Security, requires hiring qualified Swazi workers, where possible. This has discouraged some business people from relocating to Swaziland. The other performance requirement affects only exporters who wish to label their product as made in Swaziland. Local export authorities require that the local contents of such exports be at least 25 percent. The Swaziland government does not maintain any measures that are alleged to violate the WTO Trade Related Investment Measures requirements.

Swaziland has several investment incentives for qualifying investments, particularly those in export-driven industries such as manufacturing, mining, and international services. The government offers a human resources training rebate of 150 percent of the cost written against income taxes. At the discretion of the Minister of Finance, the government offers an income tax rate of 10 percent for the first ten-year period after a new investment. Capital goods imported into the country for productive investments are exempt from import duties. Raw materials imported into the country to manufacture products to be exported outside the SACU area, such as textiles exported to the United States under AGOA, are also exempt from import duties. The government allows for repatriation of profits and dividends including salaries for expatriate staff and capital repayments. The Central Bank of Swaziland guarantees loans issued by banks to companies exporting. There is also provision of loss cover, which allows companies to carry losses over multiple years to minimize their tax burden.

6. Right to Private Ownership and Establishment

The majority of Swaziland's largest businesses are owned by foreign investors, either fully or with minority participation by Swazi institutions. There are no legal restrictions on foreign ownership that are discriminatory against foreign investors, but the government and the royal family's direct investment in industry is a practical limitation to foreign investment requiring a Swazi investor or joint venture. Both foreign and domestic private entities have a right to establish businesses, and acquire and dispose of interests in business enterprises.

7. Protection of Property Rights

The GKOS recognizes and enforces secured interests in property, both moveable and real. However, most property in the country is not titled and lending institutions cannot secure any interest in this land known as Swazi Nation Land. For titled property, there is a recognized and reliable system of recording security interests.

The Constitution of Swaziland protects the right to own property and if the property is needed for development, the owner is supposed to be compensated. However, there are numerous instances where the government has used its powers of eminent domain without compensating the residents or owners of the land. In Swaziland property prices are not regulated. Properties in cities are levied with property rates by the municipalities.

Intellectual Property

Protection for patents, trademarks and copyrights is currently inadequate under Swazi law. Patents are currently protected under a 1936 act that automatically extends patent protection, upon proper application, to products that have been patented in either South Africa or Great Britain.

Trademark protection is addressed in the 1994 Trademarks Act. Copyright protection is addressed under four statutes, dated 1912, 1918, 1933 and 1936. Swaziland inherited its intellectual property rights regime from the colonial era, under which copyrights, patents, and trademarks were somewhat protected under various acts promulgated by the colonial authorities. According to the Registrar General, the acts have not been implemented and copyright protection in Swaziland is "limited."

The government has acceded to the WTO TRIPS agreement. Implementation and enforcement are minimal due to the small number of patent disputes. The GKOS has not signed the WIPO Internet Agreement. Swaziland's WIPO link is available here <http://www.wipo.int/wipolex/en/profile.jsp?code=SZ>

Embassy point of contact: Christian Olsen OlsenCR@state.gov

Local lawyers list: <http://swaziland.usembassy.gov/attorneys.html>

8. Transparency of the Regulatory System

In general, Swaziland's tax, labor, environment, health and safety, and other laws do not intentionally distort or impede investment. However, in many areas, the legal and regulatory environment is underdeveloped, opaque, or unpredictable. For instance, Swaziland does not have an approved trade policy, investment policy, or industrial policy. The country's Economic Recovery Strategy specifically identifies the need to promote strategies and reforms in order to facilitate investment.

Proposed laws and regulations are published in the government Gazette for public comment thirty days prior to a bill's presentation to Parliament. Ministries sometimes consult with selected members of the public and private sector.

The Competition Commission is in place and the office is fully functioning. The Commission will be governed by the public enterprise unit law. It is the government's stated policy to foster a free market economy. There are no informal regulatory processes, but corruption, particularly in government procurement, creates informal hurdles to operating a business in the country. There are no efforts to restrict foreign investment by industry standards-setting organizations.

9. Efficient Capital Markets and Portfolio Investment

Swaziland's capital markets are closely tied to those of South Africa and operate under conditions generally similar to the conditions of that market. Commercial banks offer credit on market terms, but the rules of the Common Monetary Area forbid non-Swazis from raising domestic loan capital, although they can apply to the Central Bank for an exception. This restriction has not greatly discouraged foreign capital flows into Swaziland in the past, but could increasingly sour the Swazi investment climate as regional competitors build investment regimes more attractive to foreign business.

At present, the government is trying to put in place an effective regulatory system to encourage portfolio investment. In 2010, the GKOS enacted the Securities Act, which will strengthen the regulation of such investment. This Act's aim is primarily to facilitate and develop an orderly, fair and efficient capital market in the country. Swaziland has a small stock exchange with six companies currently trading equity shares and bonds. The Financial Services Regulatory Authority (FSRA) Act 2010 came into force in June 2010. This act governs non-bank financial institutions including capital markets, insurance, retirement fund, building societies, micro-finance institutions and Savings and Credit Cooperatives.

The Central Bank supervises financial institutions, which include the First National Bank of Swaziland Limited, Nedbank, Standard Bank, Swazi Bank, Swaziland Building Society and the Blue Financial Services (Pty) Ltd. These are governed by the Financial Institutions Order of 1975.

"Cross share-holding" and "stable shareholder" arrangements do not exist in Swaziland. There have been no hostile takeovers by domestic or foreign interests. Since Swaziland's financial markets are just emerging, a variety of credit instruments have yet to be developed.

10. Competition from State-Owned Enterprises

Through state owned enterprises, the government competes directly with the private sector in energy, financial services, transportation, tourism, and telecommunications. Private enterprises and public enterprises operate in different investment climates. Public enterprises often are responsible for charging levies for supplies imported by private enterprise in which public enterprise also competes. Examples of this occurrence include the dairy, fruits and vegetables, and the maize industries. Senior management of state owned enterprises report to a board which, in turn, reports to the Cabinet Minister responsible for the sector. A senior member of the Ministry sits on the board. State owned enterprises are governed by the Public Enterprises Act which requires audits of the SOEs and public annual reports.

A sovereign wealth fund known as Tibiyo Taka Ngwane, which was created through royal charter under the reign of the current King's father, King Sobhuza II in 1968, forms ventures with foreign investors and invests in existing foreign enterprises in the country. In theory, Tibiyo Taka Ngwane is held by the King in trust for the Swazi nation and is separate from the government. However, the fund is widely invested in the economy and holds shares in most major industries including telecommunications, commercial real estate, sugar, dairy, beverages, hotels, and transportation. It is run as a private equity investment fund for the benefit of the King and royal family. Foreign companies seek to establish business relationships with Tibiyo Taka Ngwane both as a method of raising capital, and also because of the political protection it provides.

11. Corporate Social Responsibility

Only the largest multinational enterprises in the country have established corporate social responsibility programs. The government does not actively encourage businesses to comply with the OECD Guidelines for Multinational Enterprises.

12. Political Violence

There is no history of major incidents of political violence aimed at destroying commercial installations in Swaziland. Violence is primarily used by the state against the citizens. On April 12, 2013 police used force to prevent a panel discussion in Manzini on the anniversary of the 1973 decree that overturned the country's constitution and vested all power in the King. On September 6, 2013, Swaziland's Independence Day, police detained a number of members of the various political parties and labor groups to prevent the International Trade Union Confederation (ITUC) from holding an event in Manzini on labor conditions. Police regularly set-up roadblocks at entry and exit points of the two major cities, Manzini and Mbabane, to prevent political parties (which are not allowed to register in Swaziland) and labor groups from attending events and meetings. Police regularly harass, arrest, and imprison critics of the government. In March, 2014, a human rights lawyer and journalist were arrested and detained for several months for their criticism of the judiciary. Authorities prevent meetings and demonstrations and halt prayer meetings organized by certain church groups. The three main human rights abuses are police use of excessive force, including use of torture, beatings, and unlawful killings; restrictions on freedoms of association, assembly, and speech; and discrimination against and abuse of women and children. Other human rights problems include arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; prohibitions on political activity and harassment of political activists; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transgender (LGBT) community and persons with albinism; mob violence; harassment of labor leaders; child labor; and restrictions on worker rights. In general, perpetrators act with impunity, and the government takes few or no steps to prosecute or punish officials who committed abuses.

13. Corruption

The Prevention of Corruption Act came into effect and established an Anti-Corruption Commission in 2007. The Minister of Finance in his budget speech of 2014 referred to corruption as a problem in Swaziland. He recognized that public accountability requires the active participation of all sectors of society, but Government must take prime responsibility.

To enhance the fight against corruption in Swaziland the Minister allocated E20.2 million (approximately \$2 million) to the Director of Public Prosecutions and the Anti-Corruption Commission (ACC). Government has also provided E8 million (approximately \$800,000) to the Financial Intelligence Unit (FIU) to continue implementing the Money Laundering and Terrorism (Prevention) Act of 2011. FIU will, among other activities, embark on public awareness campaigns to sensitize the country on the offences and consequences of money laundering and financing of terrorism.

Corruption is particularly prevalent in government procurement. Parliament passed the Procurement Act in 2011 whose aim is to provide regulation and control practice in respect of public procurement. Giving or receiving a bribe is illegal. A convicted person faces a maximum of a 100,000 emalangeni (approximately \$10,000) fine or ten years imprisonment. A convicted law enforcement officer or public prosecutor faces a maximum fine of 200,000 emalangeni (approximately \$20,000) or twenty years in prison. Foreign and domestic businesses have indicated that corruption and bribery requests impact profits, contracts and investment decisions for their companies.

Swaziland is a signatory of the UN Anti-Corruption Convention, African Union Convention on Preventing and Combating Corruption and Related Offences, and the SADC Protocol against Corruption. Swaziland has not ratified the UN Anti-Corruption Convention. Swaziland is not a signatory to the OECD Convention on Combating Bribery.

14. Bilateral Investment Agreements

Swaziland has bilateral trade agreements with Great Britain, Germany, and the European Union (EU). The Cotonou Agreement between the EU and the African, Caribbean and Pacific (ACP) countries expired on 31 December 2007, but Swaziland signed an interim Economic

Partnership Agreement (EPA) with the EU and is currently renegotiating a new EPA. In 2008, SACU and the U.S. signed a Trade, Investment, and Development Cooperative Agreement.

Swaziland has bilateral investment protection agreements with Egypt, Germany, Taiwan, Mauritius, and the United Kingdom.

Swaziland does not have a bilateral investment or bilateral taxation agreement with the U.S.

The Swaziland Revenue Authority (SRA), the tax collection agency, commenced operation in January, 2011. Charged with improving the efficiency and rate of revenue collection in the kingdom, the SRA has been assertive in pursuing individuals and businesses. The kingdom implemented a value-added tax of 14 percent in April 2012. VAT replaced the sales tax.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) has not been active in Swaziland.

16. Labor

Swaziland's laws do not comply with internationally recognized labor rights, particularly in the area of freedom of association. Swaziland's Public Order Act and Suppression of Terrorism Act are used by police as a pretext for arbitrarily detaining and arresting labor leaders without requirements for due process. In addition, after de-registering the country's trade federation, the Swazi government has not amended its laws to allow for the existence of a legal federation of unions which is in violation of ILO standards. In 2013, the Swaziland government used force on numerous occasions against union leaders and pro-democracy activists. To date, the GKOS has failed to enact legislation to allow for the registration of a federation, including those comprised of trade unions, despite the efforts of the Trade Union Congress of Swaziland (TUCOSWA) to register for over two years. The GKOS has had a contentious relationship with organized labor because of the lack of a vehicle to register a federation to legalize their activities.

According to the Industrial Relations Act, workers can engage in a strike action if there is an unresolved dispute. The party that intends to go on strike needs to give notice to the employer, Labor Commissioner, and the Conciliation, Mediation and Arbitration Commission. Within seven days CMAC should arrange and supervise a secret ballot to determine whether the majority of employees are in favor of the strike action.

There is a high level of domestic underemployment and a severe shortage of technically skilled labor, a fact that results in a heavy reliance on expatriate technicians, accountants, and engineers.

17. Foreign Trade Zones/Free Ports

Swaziland does not have any free trade zones, but supports four industrial areas. The largest is in Matsapha, located between the primary cities of Mbabane and Manzini. It has direct rail and road links. The Matsapha Industrial Estates dry port maximizes time and cost savings for importers and exporters using the ports of Durban and Richard's Bay, South Africa and Maputo, Mozambique.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

The Central Bank of Swaziland tracks foreign direct investment by type and sector. Total stock of FDI increased to E8.1 billion (approximately \$810 million) in 2012 from a revised stock of E7.4 billion (approximately \$740 million) realized in 2011. An analysis of FDI by type reflects that reinvestment of earnings is still the major driver of FDI in Swaziland accounting for 42.4 percent of the total stock of FDI in 2012.

The stock of long term capital recorded a sizeable increase of 65.7 percent in in 2012 to stand at E3.2 billion (approximately \$320 million). This was due to the funding of local private sector companies in the agricultural sector by non-resident parent companies for expansion and investment purposes.

Short term capital registered a decline of 37 percent to stand at E919 million (approximately \$92 million) in 2012. The equity component posted a slow growth of 2.1 percent, indicating the absence of new companies as the country competes for FDI in the region.

In 2012 FDI indicates that the manufacturing sector continues to be the leading contributor to total stock of FDI. Efforts to resuscitate the forest industry resulted to an increase in external financing channeled towards the agricultural sector. The agricultural sector remained the second largest contributor after the manufacturing sector.

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy provided by Central Bank of Swaziland.

	2007	2008	2009	2010	2011 (revised)	2012 (preliminary)
Equity	83.29	58.87	59.86	53.94	55.33	57.54
Reinvested Earnings	463.66	238.84	285.10	374.69	358.08	358.15
Long-term Capital	100.12	175.76	206.17	75.47	201.51	333.88

Short-term Capital	71.67	49.62	68.15	133.43	151.28	95.34
TOTAL FDI	736.88	550.49	619.32	637.52	766.21	844.92
Change in Total FDI (%)	4.6	4.6	18.4	2.9	20.2	10.3
Change excluding reinvested Earnings (%)	(7.4)	11.4	17.6	(21.4)	55.3	19.3
Average Inflation (%)	8.1	12.6	7.5	4.5	6.1	8.9

Source: Central Bank of Swaziland

Note: Figures reported in historical E, converted using 2013 average exchange rate USD1/E10

	2011 (revised)		2012 (prelim.)	
	STOCK	CHANGE (%)	STOCK	CHANGE (%)
Manufacturing	461.64	15.0	445.93	(3.4)
Services	104.13	28.0	95.03	(8.7)
Investment	18.65	(10.0)	20.36	9.2
Agriculture	109.35	63.9	185.96	70.1
Finance	70.33	17.5	74.77	6.3
Mining	6.55	(8.5)	22.86	249.6
TOTAL	770.63		844.92	

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

Mixed legal system of civil, common, and customary law

International organization participation:

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

Section 6 - Tax

Exchange control

For further information -

http://www.gov.sz/index.php?option=com_content&view=article&id=277&Itemid=405

Treaty and non-treaty withholding tax rates

For further information -

http://www.gov.sz/index.php?option=com_content&view=article&id=277&Itemid=405

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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