

Ukraine

RISK & COMPLIANCE REPORT

DATE: January 2017

Executive Summary - Ukraine

Sanctions:	EU & US Sanctions
FATF list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score)
Medium Risk Areas:	Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

grain, sugar beets, sunflower seeds, vegetables; beef, milk

Industries:

coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, food processing

Exports - commodities:

ferrous and nonferrous metals, fuel and petroleum products, chemicals, machinery and transport equipment, food products

Exports - partners:

Russia 23.7%, Turkey 6%, China 4.1% (2012)

Imports - commodities:

energy, machinery and equipment, chemicals

Imports - partners:

Russia 19.4%, China 10.2%, Germany 9.6%, Belarus 7.8%, Poland 7.1% (2012)

Investment Restrictions:

Under Ukrainian law, certain types of business activity may be pursued by state-owned enterprises only. These include some natural monopolies, the rocket industry, the production of bio-ethanol, and the printing of banknotes and blank securities forms. In addition, Ukrainian law authorizes the government to set limits on foreign participation in "strategically important areas," although the wording is vague and the law is rarely used in practice. Generally, these restrictions limit the maximum permissible percentage of foreign investment into Ukrainian firms in these sectors. For example, the share of foreign investors' participation in Ukrainian publishing houses is limited to 30%. Investments into the energy sector can also be problematic. A company's "strategic status" can be lifted by Parliament, on the recommendation of the Cabinet of Ministers, and foreign entities would then be allowed to participate. Although foreigners are prohibited from establishing TV or radio stations, they can invest into already established entities in this area. In addition, foreign entities cannot buy agricultural land.

Ukraine's Anti-Monopoly Committee implements anti-monopoly, competition, and consumer protection legislation under the March 2002 Law "On Protection of Economic Competition." New companies and mergers/acquisitions face strict controls. Most investments, joint ventures with multiple partners, and share acquisitions require the Committee's approval. Those violating fair competition rules may be fined up to 10% of the prior year's turnover. If unfairly gained profit exceeds 10% of income, up to three times the normal penalty can be collected. The applicant, defendant, or a third party may appeal a Committee decision, but the appeal must be filed within two months after the decision is taken.

Ukraine canceled the mandatory registration requirement for foreign investment in April 2010, which had been in force since November 2009.

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Section 1 - Background

Ukraine was the center of the first eastern Slavic state, Kyivan Rus, which during the 10th and 11th centuries was the largest and most powerful state in Europe. Weakened by internecine quarrels and Mongol invasions, Kyivan Rus was incorporated into the Grand Duchy of Lithuania and eventually into the Polish-Lithuanian Commonwealth. The cultural and religious legacy of Kyivan Rus laid the foundation for Ukrainian nationalism through subsequent centuries. A new Ukrainian state, the Cossack Hetmanate, was established during the mid-17th century after an uprising against the Poles. Despite continuous Muscovite pressure, the Hetmanate managed to remain autonomous for well over 100 years. During the latter part of the 18th century, most Ukrainian ethnographic territory was absorbed by the Russian Empire. Following the collapse of czarist Russia in 1917, Ukraine was able to achieve a short-lived period of independence (1917-20), but was reconquered and forced to endure a brutal Soviet rule that engineered two forced famines (1921-22 and 1932-33) in which over 8 million died. In World War II, German and Soviet armies were responsible for some 7 to 8 million more deaths. Although final independence for Ukraine was achieved in 1991 with the dissolution of the USSR, democracy and prosperity remained elusive as the legacy of state control and endemic corruption stalled efforts at economic reform, privatization, and civil liberties. A peaceful mass protest "Orange Revolution" in the closing months of 2004 forced the authorities to overturn a rigged presidential election and to allow a new internationally monitored vote that swept into power a reformist slate under Viktor YUSHCHENKO. Subsequent internal squabbles in the YUSHCHENKO camp allowed his rival Viktor YANUKOVYCH to stage a comeback in parliamentary elections and become prime minister in August of 2006. An early legislative election, brought on by a political crisis in the spring of 2007, saw Yuliya TYMOSHENKO, as head of an "Orange" coalition, installed as a new prime minister in December 2007. Viktor YANUKOVYCH was elected president in a February 2010 run-off election that observers assessed as meeting most international standards. The following month, Ukraine's parliament, the Rada, approved a vote of no-confidence prompting Yuliya TYMOSHENKO to resign from her post as prime minister. In October 2012, Ukraine held Rada elections, widely criticized by Western observers as flawed due to use of government resources to favor ruling party candidates, interference with media access, and harassment of opposition candidates.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Ukraine 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 Ukraine was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Ukraine was deemed Compliant for 2 and Largely Compliant for 12 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

Key Findings from Mutual Evaluation Progress Report (2012):

The measures taken by Ukraine in respect of all the FATF Core Recommendations are evidence of concrete progress made by Ukraine to correct the identified deficiencies. The very large majority of shortcomings identified in the context of the third round mutual evaluation report appear to have been addressed, strengthening the AML/CFT regime.

There remain certain issues, as outlined above. Notably, although the issue of corporate criminal liability has been revisited, there is no progress on the issue of criminal liability of legal persons . This issue will need to be revisited. The authorities should also consider, as previously raised, that the terrorist acts covered under article 258 and 258 - 5 include explicitly all acts provided for in the international conventions annexed to the TF Convention, and continue raising awareness and expertise on the application of recently introduced offences.

As regards the preventive regime, there remain a few issues which would require further clarifications, and the authorities should pursue their efforts in order to ensure that the provisions of the AML/CFT law, as amended, and additional implementing regulations of the preventive regime, are adequately implemented and enforced.

The updated statistics of the progress report could be indicative of improvements in respect of effectiveness, though a desk based review is limited in its ability to assess effectiveness or the lack thereof and as such this issue will be considered in - depth in the context of Ukraine's 4 th round follow up evaluation.

In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the

progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visits

US Department of State Money Laundering assessment (INCSR)

Ukraine was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Although Ukraine is not a regional banking or financial center, and despite several international banks pulling out of the country, it does have close ties with European banking networks. Illicit proceeds are primarily generated through corruption; fraud; trafficking in drugs, arms, and persons; organized crime; prostitution; cybercrime; and tax evasion. Money launderers use various methodologies, including real estate, insurance, bulk cash smuggling, financial institutions, and shell companies. Few Ukrainian businesses are owned transparently. The British Virgin Islands, Cyprus, and other offshore tax havens are often used to obscure ownership, evade taxes, or mask illicit profits.

Ukraine's large shadow economy represents a significant money laundering vulnerability. Conducted in cash with little records or oversight, transactions in the grey economy make it relatively easy to launder money in Ukraine and deprive the government of tax revenue. The use of the informal economy is linked to evasion of taxes and customs duties. Many Ukrainians work abroad and send remittances back to Ukraine via transfers or international payment systems; these remittances amounted to approximately \$2.2 billion in the first six months of 2015. Of this total, \$311 million arrived via informal channels. Additionally, there is a significant market for smuggled goods in Ukraine.

Endemic corruption in Ukraine is an additional factor that worsens the problem of money laundering. Furthermore, transnational organized crime syndicates utilize Ukraine as a transit country to launder their illicit profits to a third country. In the course of investigations conducted between March 2014 and September 2015, the State Financial Monitoring Service (FMS), Ukraine's financial intelligence unit, froze the equivalent of \$1.52 billion of funds reportedly related to large-scale corruption activities of the former government.

Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: NO

Criminalization of money laundering:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES ***civilly:*** YES

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES

KYC covered entities: Banks, insurance companies, gaming institutions, credit unions, depositories, securities traders, registers, pawn shops, mail service operators and other operators conducting money transfers or foreign exchange, real estate traders, certain traders of precious metals and stones, notaries, auditors, independent lawyers, leasing providers, and private entrepreneurs

REPORTING REQUIREMENTS:

Number of STRs received and time frame: Not available

Number of CTRs received and time frame: Not available

STR covered entities: Banks, insurance companies, gaming institutions, credit unions, depositories, securities traders, registers, pawn shops, mail service operators and other operators conducting money transfers or foreign exchange, real estate traders, certain traders of precious metals and stones, notaries, auditors, independent lawyers, leasing providers, and private entrepreneurs

money laundering criminal Prosecutions/convictions:

Prosecutions: 241 in 2014

Convictions: 156 in 2014

Records exchange mechanism:

With U.S.: MLAT: YES Other mechanism: YES

With other governments/jurisdictions: YES

Ukraine is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), a FATF-style regional body.

Enforcement and implementation issues and comments:

In 2015, the Government of Ukraine took positive measures to reduce corruption. The country recently created the National Anti-Corruption Bureau and the Inspector General's Office and is working to reform the judiciary. Amendments to the Law on Banking enacted in February 2015 allow expedited liquidation of banks involved in money laundering and terrorist financing. The National Bank of Ukraine has shuttered seven banks since then under these measures.

Ukraine combines currency transaction reports (CTRs) and suspicious transaction reports (STRs) for statistical purposes. From January to September 2015, 2,873,485 reports were received, representing more than a three-fold increase over the same period last year. The reporting upsurge is attributed to increased focus on destabilizing threats in eastern of Ukraine.

While Ukraine has signed and ratified international treaties, implementation is often weak. This is particularly true in the area of international law enforcement cooperation, mutual legal assistance, and asset forfeiture. The Rada voted on a draft law in November 2015 to establish a National Agency on Detection of Corruption Proceeds. The Rada still needs to give final approval to the draft and the President must then sign it. The Agency, when established, will be entrusted with drafting and signing international asset sharing agreements.

Cybercrime is an on-going problem in Ukraine. In 2015, a European joint investigative team working with Ukrainian counterparts uncovered a major cybercriminal group operating in the country. The enforcement action targeted high-level cybercriminals and their accomplices who are suspected of developing, exploiting, and distributing banking Trojan malware as well as channeling and cashing-out the proceeds of their crimes. The cybercriminals used malware to attack online banking systems in Europe and beyond, adapting their sophisticated banking Trojans over time to defeat the security measures implemented by the banks. On digital underground forums, they actively traded stolen credentials, compromised bank account information, and malware, and sold their hacking 'services.' Tens of thousands of users' computers were infected with banking Trojans with total damages estimated at over \$2 million.

Ukraine must address the rise of cybercrime and related transnational organized crime activities by better examining the significant amounts of money flowing into its banking system. Ukraine needs to increase prosecution of large-scale financial crimes, corruption, and money laundering schemes. It also should improve implementation of its provisions for asset freezing, confiscation, and forfeiture. Ukraine should enhance regulatory oversight of its gaming industry and examine how gaming is used to launder money and its possible relationship with regional organized crime. The government should investigate how informal money and value transfer networks are used not only for remittances, but for the transfer of illicit proceeds. Ukraine should enact its draft bill on international law enforcement cooperation in order to fully implement its treaty obligations.

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

According to the US State Department, Ukraine 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.

EU White list of Equivalent Jurisdictions

Ukraine 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

Ukraine is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2016 (introduction):

Although Ukraine is not a major drug producing country, its location astride several important drug trafficking routes into Western Europe leaves it vulnerable as an important transit country. Ukraine's numerous ports on the Black and Azov Seas, its extensive river routes, and its porous northern and eastern borders make Ukraine an attractive route for drug traffickers into the European Union's (EU) illegal drug market.

Heroin from Afghanistan is trafficked through Russia, the Caucasus, and Turkey, before passing through Ukraine. Cocaine originating from South America is moved through Ukrainian seaports and airports for both domestic use and further transit to EU countries. Ukrainian law enforcement occasionally interdicts large shipments of drugs in commercial shipping transiting southern ports. In June 2015, a record 500 kilogram shipment of heroin was seized in transit arriving from Turkey through Illichivsk near Odesa, en route to Western Europe. More commonly, drugs are found in small quantities, ranging from several grams to several hundred grams. Russian aggression in eastern Ukraine, including arming, training, and fighting alongside separatists, has created a new vulnerability that could lead to increased drug transit through the region.

The use of synthetic drugs and psychotropic substances, especially amphetamines, has been rapidly increasing in Ukraine over the past decade, in line with international trends. Synthetic drugs are trafficked to Ukraine primarily from Poland, Lithuania, and the Netherlands, but they are also produced locally in small clandestine labs.

Most domestic drug abuse, however, continues to be focused on drugs made from illicit drug crops (cannabis and opium poppy) grown in the region. These account for more than 90 percent of the total drug market in Ukraine. In most instances, these drugs are either locally produced or supplied from Russia and Moldova.

The number of registered drug addicts was 68,220 as of May 2015. However, various experts estimate the actual total number of people with substance use disorders in Ukraine could be as high as 500,000.

The United States maintains an active role in helping Ukraine bring its law enforcement and justice sector institutions up to European standards, facilitating Ukraine's integration into Euro-Atlantic institutions. This integration will in turn assist Ukrainian authorities in building effective law enforcement capacity and drug control programs, including programs to reduce demand for dangerous drugs. A bilateral mutual legal assistance treaty between Ukraine and the United States has been in force since 2001. The U.S. Drug Enforcement Administration has established a good working relationship with both the Ministry of Interior (MOI) and the Security Service of Ukraine, and training programs have deepened these relationships. Through a variety of projects, the United States also assists the MOI in building capacity while simultaneously strengthening the capability of the State Border Guard Service and the State Fiscal Service to control Ukraine's 3,490 mile-long border.

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

Ukraine 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

In February 2014, former Ukrainian president Viktor Yanukovich abandoned his position and fled the country, resulting in parliament voting in a new government. However, between February and April 2014, the Russian Federation militarily intervened in, occupied, and attempted to annex Crimea, and destabilized parts of eastern Ukraine in advance of May 25 presidential election. Russian-backed "separatists" seized government buildings, took hostages, and terrorized the populations of several cities and towns in the east and south, and in May held illegal referenda on "independence" from Ukraine in the regions of Donetsk and Luhansk.

Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine as well as in Russia, Poland, Iraq, Spain, Turkey, Cyprus, Greece, Republic of Seychelles, Portugal, the Czech Republic, Israel, Italy, South Korea, Moldova, China, United Arab Emirates, Montenegro, the United Kingdom, Kazakhstan, Tunisia, and other countries. Ukrainian women and children are subjected to sex trafficking within the country. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, were subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. Some Ukrainian children are subjected to forced begging. Ukrainians most at risk of trafficking are from rural areas with limited access to employment opportunities and are often targeted by Ukrainian recruiters using fraud, coercion, and debt bondage. Children in orphanages and crisis centers continue to be particularly vulnerable to trafficking within Ukraine.

The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, under the leadership of former Ukrainian president Viktor Yanukovich, the government adopted standards of social services for victims; re-established the anti-trafficking unit as a separate, stand-alone subdivision; and significantly increased the number of officers in the anti-trafficking unit. Despite these efforts, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Ukraine is placed on Tier 2 Watch List. For the third year in a row, the government investigated fewer trafficking offenses and prosecuted fewer defendants. The government also identified significantly fewer trafficking victims—approximately a third of the number of victims identified in 2011—although NGOs report that they are still serving a very large number of trafficking victims. Foreign victims were punished, as some victims were held in detention centers for deportation. Funding to NGOs providing victim assistance and support remained inadequate.

Latest US State Dept Terrorism Report

Overview: Ukraine took several steps to mitigate the threat of terrorism. The government installed radiation detection systems at the port of Odesa, enacted amendments that

strengthened Ukraine's terrorist financing legislation, and the Ukrainian military participated in regional military counterterrorism exercises.

Legislation and Law Enforcement: Following President Yanukovich's April pledge to eliminate Ukraine's stockpile of highly enriched uranium (HEU) by 2012 at the Nuclear Security Summit in Washington, DC, Ukraine reached a significant milestone in late December with the removal of 50 kilograms of HEU fresh fuel from Kyiv, Kharkiv, and Sevastopol. With this action, Ukraine demonstrated global leadership by ensuring that vulnerable nuclear material does not end up in terrorist hands.

Ukraine completed the installation of radiation detection systems and associated training in conjunction with the U.S. National Nuclear Security Administration's Second Line of Defense (SLD) program at the port of Odesa. The program aims to deter, detect, and interdict illicit trafficking in nuclear and other radioactive materials across international borders and through the global maritime shipping system.

In keeping with the National Biometrics Action Plan, the Ministry of Internal Affairs announced in November plans to introduce biometric passports for Ukrainians traveling abroad. The plan was not yet adopted by the Cabinet of Ministers at year's end, however.

Countering Terrorist Finance: On May 21, President Yanukovich signed into law amendments to Ukraine's anti-money laundering and counterterrorism financing (AML/CTF) legislation. The amendments represented a significant step toward compliance with the recommendations of the Financial Action Task Force (FATF) and the standards of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The new legislation replaced and significantly improved Ukraine's basic AML/CTF Law, and amended relevant portions of the Criminal Code to bring them into greater compliance with international standards. However, Ukraine has remained on the FATF list of countries with "strategic deficiencies" since February 2010.

Regional and International Cooperation: Ukraine contributed a 20- person Special Operations Task Unit to participate in a multinational special operations counterterrorism exercise that was conducted in Poland in September. U.S. European Command (EUCOM) sponsored the exercise.

OFAC - Publication of Ukraine-related general licenses

On 30 January 2015, the Department of the Treasury published three Ukraine-related general licenses: [General License 6, "Noncommercial, Personal Remittances Authorized,"](#) [General License 7, "Operation of Accounts Authorized,"](#) and [General License 8, "Transactions Related to Telecommunications and Mail Authorized."](#) These general licenses authorize certain transactions that would otherwise be prohibited pursuant to Executive Order 13685 of December 19, 2014, "Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine."

29 April 2014 - The U.S. and Europe expanded sanctions to include other Russian government officials and business entities in an effort to pressure President Vladimir Putin and his Ukrainian allies to cease their military activity in eastern Ukraine.

[US](#)

[Europe](#)

21 March 2014; The US President has issued a new Executive Order, Blocking Property of Additional Persons Contributing to the Situation in Ukraine; expanding the scope of the national emergency declared in Executive Order 13660 of March 6, 2014, and expanded by Executive Order of March 16, 2014

[Read Order](#)

21 March 2014; The EU has imposed sanctions on another 12 individuals over Russia's annexation of Crimea from Ukraine.

18 March 2014 - US President signed an Executive Order Blocking Property of Additional Persons Contributing to the Situation In Ukraine. This new authority expands upon E.O. 13660 by providing the ability to target officials of the Government of the Russian Federation, any individuals or entities that operate in the arms or related materiel sector in the Russian Federation, and any individual or entity that is owned or controlled by, or provides material or other support to any senior official of the Government of the Russian Federation or any person designated pursuant to this order.

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EU imposes Ukraine sanctions after deadly Kiev clashes

7 March 2014 Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

[Read More](#)

7 March 2014 OFAC: Issuance of Ukraine-related Executive Order

[Read More](#)

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	29
World Governance Indicator – Control of Corruption	15

US State Department

Corruption, which pervades all levels of society and government and all spheres of economic activity in Ukraine, has long been a major obstacle to foreign investment. The full scale of corruption at the highest levels was revealed after the fall of the Yanukovich regime, when all but \$500,000 remained in the treasury account, and officials departed with billions of dollars of public funds. As fighting corruption was one of the primary tenets of the Euromaidan protests, the new government has pledged to eliminate corruption, and has taken several positive steps, including passing a new law on public procurement in April, which addressed some of the existing shortcomings of the previous law. However, the problem runs deep, and fighting will take considerable time and effort.

The government has proposed two new anti-corruption entities, which remain in the conceptual stage, and may not be formed and funded before 2015. One is an anti-corruption law enforcement investigation agency, for which draft legislation is pending, which would take over the Prosecutor General's responsibilities for investigating and prosecuting corruption. The other is an anti-corruption prevention and detection bureau for which legislation is being drafted. The functions are under considering, but may include setting anti-corruption and ethics policies, making criminal referrals, managing hotlines for complaints, promoting public awareness and accountability, and protecting whistleblowers. A prospective leader, a journalist with significant anti-corruption investigative experience, has been identified.

Corruption stems from such factors as such as a lack of institutional transparent decision-making and low societal understanding of the importance of corporate governance. That said, opinion polling shows increasing public frustration and anger with official corruption,

which helped to mobilize the Maidan protests. Low public sector salaries fuel corruption in local administrative bodies such as the highway police, the health system, the tax administration, and the education system. Corruption within the Customs Service often makes it more difficult and more costly for businesses to import/export goods. Agricultural firms, for example, have been affected by significant overvaluation of imports. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatization and procurement procedures.

Ukraine's guiding authority on corruption is the 2011 law "On Corruption Prevention and Counteraction," whose articles on Financial Controls came into force in 2012, but has been rarely enforced. Over the years, Ukraine adopted several strategies aimed at fighting corruption, though to little effect. In 2011, President Yanukovich announced a National Strategy on Fighting Corruption, creating an anti-corruption committee, but the committee never convened.

Although government action is still limited and uncoordinated, a regulatory and legislative framework to address corruption is slowly being developed. In 2005, Ukraine ratified the Council of Europe Civil Law Convention on Corruption and became a member of the Council of Europe's Group of States Against Corruption (GRECO). GRECO concluded its Joint First and Second Rounds of Evaluation of Ukraine and published its report in 2007. The Third Round Evaluation Report was published in 2011, with recommendations for improvements in criminalizing corruption offenses and transparency of financing political parties. In this transitional period, resources to report corruption are limited.

Ukraine also participates in the OECD Anticorruption Network for Eastern Europe and Central Asia. Parliament passed laws to ratify the Council of Europe Criminal Law Convention on Corruption, signed in 1999, and the UN Anticorruption Convention, signed in 2003. However, ratification of these Conventions will come into effect only when additional implementing legislation is adopted. Ukraine is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

In 2010 the State Department funded a new Resident Legal Advisor from the U.S. Department of Justice, focusing on ethics, asset declaration, and internal investigative units.

Corruption and Government Transparency - Report by Global Security

Political Climate

The 2010 presidential elections brought Viktor Yanukovich to power. The President heads the Party of Regions, which in October 2012 declared victory in Ukraine's parliamentary elections, despite observers' accusations that election results were heavily falsified, according to an October 2012 article by the New York Times. The growing power of the executive coupled with the misuse of judiciary became the main indication of a deteriorating political landscape, preventing free and fair political competition and independence of local government, as reported by Freedom House 2013. The same report further notes that the President established a firm grip on national governance by appointing his son and his close entourage to key positions in the government. This structure engendered the close interconnectedness between the economy and the politics of Ukraine, but established a strong executive and weakened the judiciary. In the US Department of State 2011 report,

Group of States Against Corruption (GRECO) expressed concern that the country's anti-corruption efforts lacked an independent anti-corruption body and a detailed plan of action for the implementation of the National Anti-Corruption Strategy. The source assesses that in 2011 corruption remained a pervasive problem in all three branches of government; furthermore, government officials at all levels were often engaged in corrupt practices. According to two GRECO reports, the Evaluation Report on Incriminations 2011 and the Evaluation Report on Transparency of Party Funding 2011, Ukraine's efforts to combat bribery and create greater transparency for political funding remains insufficient. For instance, private sector bribery and trading in influence are not fully addressed in Ukraine's legislation, while provisions on public sector bribery must be expanded to cover non-material gain. Among other problems is the fact that various state agencies in Ukraine have a legal mandate to fight corruption but they are insufficiently protected from political interests and interference.

To improve the transparency of the state authorities' activities and to create a better separation between the private and the public sector, Parliament adopted the Anti-Corruption Package of laws in its second reading in June 2009, consisting of the Law on the Principles of Prevention and Counteraction of Corruption, the Law on the Responsibility of Legal Persons for Corruption Offences and the Law on Amending Certain Legal Acts Regarding Responsibility for Corruption Offences. However, on 4 January 2011, incumbent President Yanukovich signed a law cancelling the Anti-Corruption Package of laws. On 15 March 2011, Parliament adopted a new anti-corruption law, replacing three pieces of legislation that were drafted in 2009. According to Freedom House 2013, the new law omits many key provisions of previous legislation, including mandatory declaration of expenditures by state servants and obligatory declaration of their assets. Corruption scandals have been publicly exposed, but have not been accompanied by changes in structural incentives or legal guidelines to regulate the private interests of public servants. One recent high-level corruption investigation was launched against former Prime Minister Yulia Tymoshenko who was accused of misusing state funds and abusing office during her term in office. In October 2011, the court handed down a seven-year prison term to Ms Tymoshenko, and ordered her to repay USD 188 million to the state. In addition, a former criminal case on state funds embezzlement and tax evasion charges was re-opened against Ms Tymoshenko. In December 2011, a Ukrainian court ordered Ms Tymoshenko's indefinite arrest as part of the investigation of alleged tax evasion and theft of government funds between 1996 and 2000, according to a 2011 article by Euronews. Ms Tymoshenko and her supporters claim that the probe is politically motivated.

There is generally a high tolerance for corrupt practices throughout Ukrainian society and the mindsets of political and economic elites at the federal and regional levels are slowing the country's progress towards efficient standards of opposing corruption. Both petty and grand scale corruption are thriving in Ukraine as a result, and corruption has had such a sustained impact on companies, state decision-making and the daily lives of citizens that it is perceived by many as a normal part of life. According to Transparency International's Global Corruption Barometer 2013, almost half of the surveyed respondents consider the government's efforts to fight corruption to be ineffective. According to the same report, 37% report having paid a bribe the previous year, while the judiciary and the police are reported to be the most corruption-prone public institutions. Given a political environment rife with corruption, business executives surveyed in the World Economic Forum Global Competitiveness Report 2013-2014 reveal that the level of public trust in politicians is very low.

Business and Corruption

President Yanukovich has prioritised improving Ukraine's business climate and encouraging foreign trade and investment since he took office in early 2010. However, complex laws and regulations, weak enforcement of laws by courts and corruption have made Ukraine a difficult place to operate. According to the US Department of State 2013, corruption in Ukraine represents a hurdle to doing business and investments in the country. The report notes that corruption in Ukraine permeates all levels of government and is widespread within the economy. Over the last few years, official corruption and a lack of transparency in Ukrainian administrative bodies have increased, fuelled in part by low public sector salaries. It has become more difficult and costly for businesses to import and export goods and do business in the country. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatisation and procurement procedures, as noted by the same report.

Upon closer inspection, it is apparent that the country is still plagued by systemic corruption. This is supported by the Bertelsmann Foundation 2012, according to which, private interest groups in Ukraine have colonised important parts of the state. Privatisation of former state-owned assets had spawned many accusations of corruption, political interference and competition between the former President and the former Prime Minister. Former President Yushchenko cancelled the privatisation of several key industrial sites, such as UkrTelecom and the Odessa port chemical plant, calling them unconstitutional, while many other privatisations have been suspended. Corruption in the privatisation processes in Ukraine continued throughout the current administration under President Yanukovich. According to a May 2012 article published by Spiegel Online, a luxury estate known as the 'Mezhgorye' belonging to the Ukrainian state was privatised throughout a long process involving both London-based and Vienna-based companies, nevertheless, a lead in the process referred back to Viktor Yanukovich and his alleged involvement.

In the World Economic Forum's Global Competitiveness Report 2013-2014, corruption is regarded by business executives as the second most pressing constraint on foreign companies operating in Ukraine. According to the report, companies consider the occurrence of irregular payments and bribes in Ukraine as common. In addition, public funds are commonly diverted to companies, individuals or groups due to corruption. Given these reasons, companies are recommended to use a specialised public procurement due diligence tool in order to help mitigate the costs and risks of corruption involving public procurement processes in Ukraine.

According to Transparency International's Global Corruption Barometer 2013, corruption within the private sector is perceived as rampant and is given a score of 3.9 on a 5-point scale (1 'not at all corrupt' and 5 'extremely corrupt'). Similarly, Global Integrity 2011 reports that corruption in the business sector is widespread due to flaws, loopholes and inconsistencies in legislation, but even more so due to negative practices in interpreting and enforcing the law and intentional abuses and disregard for the law. Corrupt practices are still seen by public officials as low-risk behaviour, and many officials have grown accustomed to supplementing their salaries through solicitation of unofficial payments. There are also reports of government agencies creating fiscal targets for inspection agencies thus, creating quotas for the collection of fines instead of fining in accordance with objective criteria. This leads to the arbitrary fining of companies and greater relative risks for doing business in Ukraine. Entering the Ukrainian market will almost always require local agents or consultants who can

facilitate making the necessary connections or market entry, and some of these third parties might use monetary or other inducements as a method of operation. Companies are recommended to develop, implement and strengthen integrity systems and to conduct extensive due diligence - especially when dealing with local business agents, when planning to invest or when already doing business in Ukraine.

Regulatory Environment

The years of power struggle between the executive and the legislative branches of government left the regulatory environment and the legal framework related to transparency and integrity in need of major revisions and amendments. Competing interests have been partially reflected in institutional duplication, such as the existence of several administrative units with similar formal tasks that compete for decision-making power, according to the Bertelsmann Foundation 2010. Business executives surveyed in the World Economic Forum's Global Competitiveness Report 2013-2014 perceive government administrative requirements to be quite burdensome, and business executives report that government policymaking is opaque and that government officials usually favour well-connected companies and individuals when deciding policies and contracts. Commercial regulations can be ambiguous and inconsistent, and the lack of transparency increases start-up and overall operational costs. Nonetheless, as pointed out by the Bertelsmann Foundation 2012, market entry barriers for small companies were lowered in 2005 by reducing the number of necessary licences. According to the same source, corruption is sustained by overregulation, which fuels opportunities for the extortion of bribes, not only for illegal actions, but also for the timely and proper performance of legitimate services.

Registration of a company can be followed by frequent controls and inspections, with civil servants enjoying broad discretionary powers within inspection regimes. As a result, there is a high-level of mistrust between business and regulatory bodies. Smaller companies, in particular, fear the 'costs of exposure' that come with registration, and large numbers of companies disregard legalisation in order to avoid official registration costs and further pressures from regulatory bodies. InvestUkraine, a non-profit investment promotion agency, was established in August 2005 with government support and intended to function as an investment one-stop shop. The agency has developed a wide-range of partnerships with international donors as well as domestic organisations working with anti-corruption and hosts networking conferences and events. National and local authorities have developed nearly 200 one-stop-shops intended to cut the number of standard registration procedures. Nevertheless, these results are not reflected in the findings of the World Bank & IFC's Doing Business 2013. In fact, the report reveals that starting a business in Ukraine is challenging, taking an average of 22 days and 7 procedures. Ukraine is reported to be among the most difficult countries in the world to conduct business in relation to licensing and taxes both in terms of time and number of procedures, according to the same report.

Ukraine's business and regulatory environment is negatively affected by a conflicting civil code and commercial code, as reported by the US Department of State 2013. The Civil Code is generally modern and market-oriented, ensuring private property and contract rights, whereas the Commercial Code is considered to be incompatible with market economy principles and directly contradictory to the provisions of the Civil Code, instead allowing for excessive government interference in private commercial relations. These conflicting codes, combined with high-levels of corruption, may produce problematic investor disputes. As a result, many observers believe that the Commercial Code should be

eliminated, as cited in the US Department of State 2013. Ukraine has ratified the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards and the Washington Convention, which provides for the use of the International Centre for the Settlement of Investment Disputes (ICSID). However, international arbitration decisions are rarely enforced in practice. Thus, according to the US Department of State 2013, companies find it difficult to pursue arbitration cases in Ukraine's courts due to conflicting investment and commercial laws coupled with a high level of corruption in the country. Therefore, foreign investors often seek arbitration outside of the country. Moreover, there is no single governmental entity committed to resolving business and investment disputes, meaning that dispute resolution mechanisms in the courts are lengthy and complicated. Dispute settlement is reportedly weak, unfair and biased, and companies have little faith in the judiciary's ability to work with vague laws and regulations that leave ample room for subjective interpretation and corruption to occur. Business executives surveyed in the Global Competitiveness Report 2013-2014 report that the judiciary is often politically influenced by members of government, individual citizens or companies. Access the Lexadin World Law Guide for a collection of legislation in Ukraine.

Section 3 - Economy

After Russia, the Ukrainian republic was the most important economic component of the former Soviet Union, producing about four times the output of the next-ranking republic. Its fertile black soil generated more than one-fourth of Soviet agricultural output, and its farms provided substantial quantities of meat, milk, grain, and vegetables to other republics. Likewise, its diversified heavy industry supplied the unique equipment (for example, large diameter pipes) and raw materials to industrial and mining sites (vertical drilling apparatus) in other regions of the former USSR. Shortly after independence in August 1991, the Ukrainian Government liberalized most prices and erected a legal framework for privatization, but widespread resistance to reform within the government and the legislature soon stalled reform efforts and led to some backtracking. Output by 1999 had fallen to less than 40% of the 1991 level. Ukraine's dependence on Russia for energy supplies and the lack of significant structural reform have made the Ukrainian economy vulnerable to external shocks. Ukraine depends on imports to meet about three-fourths of its annual oil and natural gas requirements and 100% of its nuclear fuel needs. After a two-week dispute that saw gas supplies cutoff to Europe, Ukraine agreed to 10-year gas supply and transit contracts with Russia in January 2009 that brought gas prices to "world" levels. The strict terms of the contracts have further hobbled Ukraine's cash-strapped state gas company, Naftohaz. Outside institutions - particularly the IMF - have encouraged Ukraine to quicken the pace and scope of reforms to foster economic growth. Ukrainian Government officials eliminated most tax and customs privileges in a March 2005 budget law, bringing more economic activity out of Ukraine's large shadow economy, but more improvements are needed, including fighting corruption, developing capital markets, and improving the legislative framework. Ukraine's economy was buoyant despite political turmoil between the prime minister and president until mid-2008. The economy contracted nearly 15% in 2009, among the worst economic performances in the world. In April 2010, Ukraine negotiated a price discount on Russian gas imports in exchange for extending Russia's lease on its naval base in Crimea. Movement toward an Association Agreement with the European Union, which would commit Ukraine to economic and financial reforms in exchange for preferential access to EU markets, was curtailed by the November 2013 decision of President YANUKOVYCH against signing this treaty. In response, on 17 December 2013 President YANUKOVYCH and President PUTIN concluded a financial assistance package containing \$15 billion in loans and lower gas prices. However, the end of the YANUKOVYCH government in February 2014 caused Russia to halt further funding. With the formation of an interim government in late February 2014, the international community began efforts to stabilize the Ukrainian economy, including a 27 March 2014 IMF assistance package of \$14-18 billion.

Agriculture - products:

grain, sugar beets, sunflower seeds, vegetables; beef, milk

Industries:

coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, food processing

Exports - commodities:

ferrous and nonferrous metals, fuel and petroleum products, chemicals, machinery and transport equipment, food products

Exports - partners:

Russia 23.7%, Turkey 6%, China 4.1% (2012)

Imports - commodities:

energy, machinery and equipment, chemicals

Imports - partners:

Russia 19.4%, China 10.2%, Germany 9.6%, Belarus 7.8%, Poland 7.1% (2012)

Banking

The Ukrainian banking system consists of the central bank - the National Bank of Ukraine (NBU), and 174 commercial banks, two of which are state-owned. The NBU is responsible for monetary circulation, registration of commercial banks and oversight of their activities, and sometimes intervenes in the currency market to moderate changes in the exchange rate.

Of 175 registered banks, the five largest banks control 36% of the market, representing the lowest market concentration level in all of Central and Eastern Europe. In absolute terms the Ukrainian banking sector is still fairly small. Total bank assets in Ukraine are estimated at UAH 920 billion (appr. \$ 116 billion), with total loan assets of UAH 740 billion (appr. \$ 93 billion), as of October 2010.

Stock Exchange

Ukraine has ten operational privately-owned stock exchanges. The PFTS is a broker/dealer SRO (self-regulatory organization) and electronic trading system, which is a leader in terms of trade volumes. About 55% of stock trades are conducted at PFTS, followed by the Ukrainian Exchange and Perspektiva Exchange with 20% each. The exchanges operate largely in compliance with international best practices. There is increasing competition in this sector, with plans underway to incorporate "market-maker" capabilities. In practice, however, significant trading continues to be done off-exchange, with some estimates placing this number at 90% of all securities market trading. The remaining exchanges are largely "pocket exchanges" that rely on revenue from sales of state-owned enterprises.

Although the equity market in particular has grown in recent years, it is still very small when compared to stock markets in other emerging markets of central Europe and does not yet act as an important source of capital for Ukrainian companies or investment destination for domestic savings.

Executive Summary

As the 2014 Investment Climate Statement goes to press, Ukraine is in the midst of a fundamental and historic transition, while facing military and economic threats from Russia. After three months of public protests ended the corrupt and increasingly autocratic government of President Viktor Yanukovich in February 2014, a new and reform-minded government initiated important steps to curb corruption, promote transparency, and introduce better governance at the national and local level.

The government also announced its intention to return Ukraine to the path toward closer integration with Europe and the West and to revitalize the stagnant economy. Prime Minister Yatsenyuk and his cabinet have engaged positively with the U.S. and European countries, and have already made a number of difficult decisions necessary to take Ukraine in the right direction. The government has taken the major steps to meet the requirements for an IMF lending agreement that should help stabilize the economy. The planned signing of an Association Agreement with the European Union in June will likely bring numerous reforms which will benefit foreign investment, but will create additional change in the short term as Ukraine's new government works to implement its provisions. Efforts along these lines could well enable Ukraine to turn the page on the past and open its doors more widely to foreign investment through cementing democratic values and adhering to transparent economic principles.

However, the Russian invasion, occupation, and annexation of Crimea in March, Russia's continued interventions in eastern Ukraine, along with Russia's trade and economic policies towards Ukraine have already proved – and may continue to prove – disruptive to the new Ukrainian government's efforts. For example, in August 2013, in response to Ukraine's plans to sign agreements with the EU, Russia imposed a series of trade barriers on Ukrainian exports, particularly in agriculture and steel. This impacted major exporters, including multinational companies who produced in Ukraine for Russian markets.

This report presents the politics, legislation, economic indicators, and business conditions as of April 30, 2014. As noted, the political and economic situation in Ukraine has been in a state of flux over recent months, so there is the potential for the investment climate to change quickly over the coming year. Overall, Ukraine's internal politics provide many reasons to be optimistic about the future, particularly since the popular passions that led to the February 2014 change in government were fueled by widespread unhappiness with corruption and a lack of reform.

1. Openness to and Restrictions Upon, Foreign Investment

Government's Attitude toward Foreign Investment

The government has sent strong signals that it welcomes foreign investment, and has already taken bold steps to turn the page from the past. Prime Minister Yatsenyuk has strongly encouraged government officials to engage with businesses and, notably, requested assistance from business associations in the selection of tax officials. The new governor of the National Bank of Ukraine met with foreign bankers on his first day, promising a new open and transparent relationship. The new head of the tax administration has reached out to foreign

business leaders, including through the American Chamber of Commerce. Additionally, the Rada (parliament) has demonstrated its willingness to improve the business climate by passing several measures to improve the ease of doing business, including two laws to improve procedures for obtaining permits and to reduce the number of permits required for doing business.

After the Yanukovich administration's long resistance to economic reforms that would unlock much-needed external financing from the IMF, the new government quickly revived negotiations and moved rapidly on multiple reforms associated with agreed-to prior actions. As of this writing, a \$17 billion loan from the IMF is pending, to be bolstered by additional billions from other international donors. Such financing should go far towards restoring economic stability. The main political components of the European Union Association Agreement were signed in March 2014, with the remainder of the agreement to be finalized in the coming months. The EU unilaterally reduced tariffs on Ukrainian goods as of April 22, which could have significant potential for economic growth if made permanent as part of the Association Agreement (and its component Deep and Comprehensive Free Trade Agreement).

Ukrainian legislation provides for national treatment of foreign investors, in line with its World Trade Organization (WTO) commitments. Due in part to conflicts in the body of laws that govern investment and commercial activity in Ukraine, and a high level of corruption in the country, foreign investors have found it difficult to pursue cases in Ukrainian courts and often seek arbitration outside of the country.

The new government, however, is less than two months old, and reversing deeply embedded practices will require significant time and effort. While in 2013 Ukraine jumped 28 places in the World Bank's "Doing Business" rankings—earning the "Most Improved" award—the fundamental factors that make business difficult remain, particularly for small- and medium-sized enterprises.

Despite the difficult operating environment, some investors are finding opportunities in Ukraine.

For their part, officials at local levels are increasingly looking to attract investment and create jobs in their regions. In many instances, these local officials have become willing partners for investors in need of land or permits, which frequently are controlled below the national levels.

Other Investment Policy Reviews

In 2012 The **United Nations Conference on Trade and Development (UNCTAD)** conducted an investment policy review of Ukraine: http://unctad.org/en/docs/webdiaeia2012d2_en.pdf

The **Organization for Economic Cooperation and Development (OECD)** conducted an investment policy review of Ukraine in 2011: <http://www.oecd.org/daf/inv/investmentfordevelopment/ukraine-investmentpolicyreview-oecd.htm>

Laws/Regulations on Foreign Direct Investment

The Law of Ukraine on Investment Activity (1991) establishes the general principles for investment. In addition, the following laws and regulations pertain to foreign investment:

- Law "On the Foreign Investment Regime" (1996), which provides for equal treatment of foreign and Ukrainian-owned business, with some restrictions;
- Law "On the Protection of Foreign Investment" (1991);
- Cabinet of Ministers' Resolution, "On the Procedure for the State Registration of Foreign Investment" (1996);
- Law "On Production-Sharing Agreements," (1999), amended in 2012;
- The Land Code (2001) provides for private ownership of land, facilitating the privatization of land for agricultural purposes, but also established a moratorium on agricultural land sales;
- National Bank of Ukraine Resolution "On Regulation of Foreign Investing in Ukraine" (2005);
- Law "On Amending Certain Laws of Ukraine with the Purpose of Overcoming Negative Impacts of the Financial Crisis" (2009);
- Updated Tax Code (2010);
- Law "On Public-Private Partnerships" (2010);
- Law "On Preparation and Implementation of Investment Projects Based on the Principle of the Single Registration Window," (enacted 2012), streamlined investment procedures;
- Amended Customs Code (2012), improved customs clearance and valuation;
- A Civil Code and a contradictory Commercial Code went into effect in 2004.
- Law "On Industrial Parks" (2012)

Industrial Promotion

Ukraine's industrial strategy is in transition. The government of Ukraine is phasing out the Ministry of Industrial Policy, which it intends to merge with the Ministry of Economic Development and Trade. The move has vexed industrialists brought up in the Soviet system, and it is unclear whether this merger will affect ancillary central organizations that are the primary drivers of national-level investment projects. As of this writing, deteriorating relations with Russia are adversely affecting the industrial sector, as much of Ukraine's industrial production is in the eastern regions of Donetsk and Luhansk, where pro-Russian separatists and insurgents have been most active.

The government of Ukraine has used its State Agency for Investment and National Projects of Ukraine as a clearing house for state approved investment projects. The agency also runs a commercial outreach program called Invest Ukraine where different investment projects are hosted. These entities have run investment conferences and do road shows to highlight investment opportunities in Ukraine. In addition to the national projects, most oblasts (regions) have their own development offices eager to talk with investors.

Inquiries on industrial investment may be directed to:

State Agency for Investment and National Project of Ukraine

- <http://www.ukrproject.gov.ua/en>
- 01601 Kyiv, 11 Velyka Zhytomyrs'ka St
- Tel: +38 (044) 254 40 15, 254 40 11
- Fax: +38 (044) 254 4017

Invest Ukraine

- <http://investukraine.com/>
- 11, V. Zhytomyrska St.
- 03032, Kyiv, Ukraine
- Tel.: +380 44 270 63 12
- info@investukraine.com
- See more at: <http://investukraine.com/456-contacts#sthash.Lwgp8i9y.dpuf>

Limits on Foreign Control

In general, the regulatory framework for the establishment and operation of business in Ukraine by foreign investors is similar to that for domestic investors (apart from the ownership of agricultural land). Investment permits are not required, but all enterprises must be established according to the form and procedure prescribed by law and registered with the appropriate state authorities.

Foreign companies are restricted from owning agricultural land, manufacturing carrier rockets, production of bio-ethanol, and some publishing activities.

In addition, Ukrainian law authorizes the government to set limits on foreign participation in "strategically important areas," but the wording is vague and the law is rarely used in practice. Generally, these restrictions limit the maximum permissible percentage of foreign investment into Ukrainian firms in these sectors. For example, the share of foreign investors' participation in Ukrainian publishing houses is limited to 30%. Investments into the energy sector can also be problematic. A company's "strategic status" can be lifted by the Rada on the recommendation of the Cabinet of Ministers and foreign entities would then be allowed to participate. Although foreigners are prohibited from founding TV or radio stations, they can invest into already established entities in this area. In addition, foreign entities cannot buy agricultural land, as mentioned previously.

Ukraine's Anti-Monopoly Committee implements anti-monopoly, competition, and consumer protection legislation under the 2002 Law "On Protection of Economic Competition." New company start-ups and mergers/acquisitions face strict controls. Most investments, joint ventures with multiple partners, and share acquisitions require the Committee's approval. Those found to be violating fair competition rules may be fined up to 10% of the prior year's turnover and if unfairly gained profit exceeds 10% of income, up to three times the normal

penalty can be collected. The applicant, defendant, or a third party may appeal a Committee decision, but the appeal must be filed within two months after the decision is made.

In 2010, Ukraine canceled the mandatory registration requirement for foreign investment, although foreign investors may still register with state authorities.

Privatization Program

The State Property Fund oversees privatizations. Privatization rules generally apply to both foreign and domestic investors, and, in theory, a relatively level playing field exists. Observers claim, however, the terms of a privatization contest are commonly adjusted to fit a pre-selected bidder. The coming year may see further privatizations as a means to plug budgetary gaps and the transparency of any new privatizations will be a good indicator of the new government's approach to business and investment

With several exceptions, few new major privatizations have been conducted since the rush of 2004. The largest recent privatization of Ukrtelekom (Ukraine's monopoly state **telecommunications** operator), was conducted through what was widely viewed as a non-transparent, single-bid process in 2011. In 2012, most regional **gas distribution** companies were privatized and the State Property Fund launched the privatization of **heating plants** with the sale of a heating plant in Kharkiv, in eastern Ukraine. Both privatizations were conducted at what analysts considered below market prices. The 2013 privatization plan yielded only 8% of its projected revenues, despite the sale of Donbasenergo, a regional **energy generation** company. The government of Ukraine also announced it may privatize the state energy monopoly Naftogaz and its subsidiaries, as well as **spirit distilleries**, but the initiative has not moved forward.

In 2012, the government of Ukraine announced its intention to privatize all 112 state-owned **coal mines** by 2014, and the Cabinet of Ministers issued a resolution to begin transforming the mines into joint stock companies in preparation for privatization. The Cabinet of Ministers also permitted the majority of state-owned mines to transfer their assets into concessions. Some industry analysts believe that the majority of the state-owned mines are no longer economically productive and would need to be bundled with other assets to attract investor interest. It is unclear to what degree the current or future government will work to meet this timeline.

Investment Trends

Measure	Year	Index/Ranking
TI Corruption Index	2013	144 out of 177
Heritage Economic Freedom	2014	155 out of 178
World Bank Doing Business	2014	112 out of 189
MCC Gov't Effectiveness	FY2014	-.2 (38%)

MCC Rule of Law	FY2014	-.33 (27%)
MCC Control of Corruption	FY2014	-.46 (8%)
MCC Fiscal Policy	FY2014	-4.3 (35%)
MCC Trade Policy	FY2014	86.2 (96%)
MCC Regulatory Quality	FY2014	-.29 (35%)
MCC Business Start Up	FY2014	.949 (62%)
MCC Land Rights Access	FY2014	n/a
MCC Natural Resource Mgmt	FY2014	20.2 (31%)
MCC Access to Credit	FY 2014	52 (85%)
MCC Inflation	FY 2014	.6 (92%)

2. Conversion and Transfer Policies

Restrictions on Converting/Transferring Funds

The 1996 Law "On Foreign Investment" guarantees the "unhindered transfer" of profits, revenues, and other proceeds in foreign currency after taxes and other mandatory payments. However, since November 2012, the National Bank of Ukraine (NBU, central bank) has implemented a number of restrictions on foreign exchange, which it further strengthened with a February 2014 resolution intended to halt the decline of the hryvnia at the height of the political crisis. The new NBU leadership has begun to relax these rules, but a number of controls remain.

A March 28 resolution gradually lifted the February requirement for advance application to purchase currency from five days to three, and then two days, and restored swap-and-forward contracts to purchase currency. The NBU has also lifted ID requirements for sale of hard currency. Some currency controls still remain: exporters must sell 50% of foreign earnings in the interbank market, and return exports proceeds to Ukraine within 90 days of the sale. The measures are to expire on May 17, 2014, but may be extended.

Additionally, under previous regulations, foreign investors may repatriate earnings, but companies must obtain a license from the NBU for some operations. Hard currency transactions over \$50,000 require NBU approval, which also incurs a fee.

Other regulations dating back to the 2008 financial crisis include limits on individual residents' and non-residents' monthly transfers of foreign currency to UAH 15,000 (\$1,300) per day without supporting documentation (e.g., court decision, contract, purchase invoice, etc.) or up to an equivalent of UAH 75,000 (\$6,500) a month without supporting documentation. Exemptions are allowed for medical expenses abroad or related travel expenses; payments connected with a death in the family abroad; or money transfers made to enforce court or

law enforcement decisions; as well as transfers made as part of a permanent departure from Ukraine.

The government of Ukraine banned the issuance of consumer loans in hard currency beginning in 2011. Previously, the NBU relaxed the cap on foreign currency loans by foreigners to Ukrainians in an effort to attract foreign lending. However, starting in 2010, the NBU required a license from non-financial companies which issue guarantees on foreign loans.

Investors convert earnings into foreign currency through commercial banks, which purchase foreign currency on the electronic inter-bank currency market. Commercial banks may trade foreign currency in electronic form with other banks through participation in electronic inter-bank currency market, regulated and operated by the NBU. To purchase hard currency, companies must provide their banks with a copy of their foreign trade contracts. Commercial banks must announce their clients' intentions to sell on inter-bank currency market if the transactions exceed \$500,000. The Law "On the Circulation of Promissory Notes" provides an opportunity for payments in foreign currency and issuance and circulation of promissory notes, in accordance with the 1930 Geneva Convention "Providing a Uniform Law for Bills of Exchange and Promissory Notes."

At present, there is no developed legal parallel market that investors might use to remit returns on their investment such as convertible instruments or foreign currency denominated bonds. In December 2011, in an attempt to increase the range of instruments available, the Rada permitted issuance of domestic government bonds denominated in hard currency. The government of Ukraine launched a placement of such bonds in the same month. There is no legal limit on the inflow or outflow of funds for profits, debt service, capital gains, returns on intellectual property, or export/imports.

Direct investors seeking to liquidate and repatriate their investments face stringent documentary requirements, though the NBU has stated its willingness to waive requirements if documents from the original transactions are no longer available. Nonresident investors who wish to convert dividends or divestment income into foreign currency must provide proof of the initial foreign investment.

In 2013 Ukraine adopted a number of Tax Code amendments in order to strengthen the legislative framework fighting transfer pricing. The amendments are seen as largely in line with international "arm's length" principle of transfer pricing control. The new government has indicated that the actual implementation of reporting under the law may be delayed from spring of 2014 to 2015 to provide a transition period for companies.

3. Expropriation and Compensation

Under the 1996 Law "On the Regime of Foreign Investment," a qualified foreign investor is provided guarantees against nationalization, except in cases of national emergencies, accidents, or epidemics. In 2009 the Parliament adopted the law on transfer of land plots and property for public needs. The law gives clear definition of public need, defines procedures for such an expropriation, and provides a list of possible reasons for expropriation for public needs.

Expropriation of property is rare, with several exceptions. In 2008, the government abruptly cancelled a Production Sharing Agreement to explore for oil and gas in the Black Sea. And in

2010, law enforcement officials forcibly removed a U.S.-invested floating restaurant from its moorage in Kyiv without providing documentation or further access to the owners. The annexation of Crimea by Russia has raised the fear that a number of private and Ukrainian state-owned businesses may be expropriated.

International institutions have recommended that definitions of expropriation and nationalization in the foreign investment law and bilateral treaties be expanded to include indirect and creeping expropriation. Courts have the jurisdiction to determine whether owners of privatized enterprises failed to pay for an enterprise or to implement investment commitments in a privatization sale. Failure to pay or invest allows the government of Ukraine, with court permission, to revoke ownership and resell the property.

Crimean Nationalization

There is significant concern about the future of businesses in Crimea. For example, although Ukraine does not recognize Russia's annexation of the region, the Russian government has taken steps to impose control over Crimea, for example installing Russian customs officials on Crimea's internal border with the rest of Ukraine. Additionally, the Crimean State Council has issued a decree on April 11, 2014 that businesses must follow the Russian tax code beginning January 1, 2015. The decree stipulates interim revisions to the Ukrainian tax code. Further, many are concerned that registration will provide an inroad for raiding attempts. On March 18, armed men conducted a physical raid against an auto showroom, a move that may have been politically motivated. Given the new power vacuum and shifted business alliances in Crimea, further hostile takeovers or raids may occur along lines of ownership.

4. Dispute Settlement

Extent and Nature of Investment Disputes

The Embassy continues to advocate on behalf of U.S. investors. These investment disputes frequently reflect the key problems in Ukraine's investment climate such as inadequate rule of law, a lack of fair and impartial dispute resolution mechanisms, official corruption, and poor enforcement of domestic court and international arbitration decisions. Another problem is poor corporate governance (inadequate protection for shareholder rights, insufficient disclosure, asset-stripping, and voting fraud). Currently, there is no single point of contact in the Ukrainian government tasked to help resolve business and investment disputes involving foreign companies. Most U.S. businesses have little confidence in Ukrainian courts. Commercial contracts may permit the parties to use international arbitration or specified foreign courts to settle disputes. Though Ukrainian legislation recognizes international arbitration decisions, in practice such decisions can be very difficult to enforce in Ukraine.

Corruption continues to lie at the heart of many investor disputes. Laws and regulations are vague; the wide latitude for interpretation provides ample opportunities for rent-seeking at every bureaucratic layer.

While the key issues that fuel business disputes remain unchanged, the Embassy has received fewer requests from U.S. investors requesting advocacy on their behalf. The Embassy has also noticed a string of long-standing disputes previously subjected to multiple postponements and delay tactics that have recently had favorable rulings. Whether this small but noticeable change is the result of the recent change in government, or the lack of attention to business disputes brought on by current events in Crimea and the eastern border, is unknown.

Description of Ukraine's Legal System

In the event of a commercial dispute, a foreign investor may seek recourse through a number of institutions. Generally, the Foreign Investment Law provides that a dispute between a foreign investor and the state of Ukraine must be settled in the Ukrainian courts, unless otherwise provided by international treaties. All other disputes involving a foreign investor must be settled in the Ukrainian courts, in courts of arbitration, including international arbitration courts, or other bodies of dispute resolution chosen by the parties to the dispute.

Ukraine's judicial system consists of the Constitutional Court and the courts of general jurisdiction. The Constitutional Court has exclusive jurisdiction over interpretation of the Constitution and laws of Ukraine and acts as final arbiter on constitutional issues. Courts of general jurisdiction are organized by territory and specialty and include: (i) local courts; (ii) appellate courts; and (iii) Supreme Courts. Local courts are either courts of general jurisdiction (including military courts) or specialized courts (i.e. commercial and administrative courts). Local commercial courts exercise jurisdiction over commercial and corporate disputes, while local administrative courts administer justice in disputes connected with legal relations in the area of state government and municipalities, with the exception of military disputes. Administrative courts also handle tax, customs, and certain antimonopoly disputes.

Since Ukraine is a civil law country, the exercise of judicial power is based solely on the application of statutes. Court decisions do not constitute binding precedents, although Supreme Court and Supreme Commercial Court decisions are summarized, to introduce uniformity to the interpretation and application of the applicable legislation, and are followed by the lower courts on a quasi-mandatory basis.

Commercial courts of Ukraine accept jurisdiction over disputes between legal entities, including foreign legal entities, Ukrainian legal entities and individual entrepreneurs, arising out of the conclusion, modification, termination, and performance of commercial agreements (including privatization). Commercial courts are also in charge of administering bankruptcy cases and certain cases initiated by the Antimonopoly Committee of Ukraine and the Accounting Chamber.

Binding International Arbitration

Ukraine enacted an international commercial arbitration law in 1994, which parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law. Ukraine is a member of the **New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards**. Some investors have problems enforcing foreign arbitration awards in Ukraine. Foreign arbitral award enforcement procedures in Ukraine are regulated by a number of statutes and regulations, including Section 8 of the Civil Procedural Code and a law "On Enforcement Proceedings." In 2000 Ukraine ratified the Washington Convention, providing for use of the **International Center for Settlement of Investment Disputes (ICSID)**, an internationally recognized mechanism for resolving investment disputes between investors and the government of Ukraine. The U.S.-Ukraine Bilateral Investment Treaty (BIT), signed in 1996, recognizes arbitration of investment disputes before the ICSID. One major investment dispute involving a U.S. company was resolved in 2006 through a combination of direct consultations with the Ukrainian government and international arbitration by ICSID.

5. Performance Requirements and Incentives

Performance Requirements

There are no current performance requirements or incentives, except for those made as part of privatization agreements. While negotiating its WTO accession, Ukraine eliminated measures that conflict with the WTO Agreement on Trade-Related Investment Measures (TRIMs) in the automobile industry and other sectors. While not yet implemented, several automobile industry specific import taxes are pending which would prove TRIMs noncompliant.

Investment Incentives

Ukraine modified its foreign investment law of 1996 to provide state guarantees to foreign investors. The most important of these is the unhindered and immediate repatriation of profits and stable regulations for the time of the investment. Foreign investors are exempt from customs duties for any in-kind contribution imported into Ukraine for the company's charter fund. Some restrictions do apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the property. There is no current requirement that investors purchase from local sources, export a certain percentage of output, or only have access to foreign exchange in relation to their exports.

From January 1, 2013, through January 1, 2018, Ukraine provides a 0% Corporate Profit Tax (CPT) on income from projects resulting in job creation in qualifying industries, including high-tech, eco-friendly, and manufacturing and export-oriented industries. The incentive is granted for new projects as well as reconstruction or upgrades to existing enterprises, under certain conditions concerning the value of the investment, the number of jobs created, and salary levels

Apart from small businesses, agricultural producers, IT companies, and qualifying investors as stated above, the 2011 Tax Code provides for additional tax "holidays" and incentives. Specifically, the following businesses are entitled to 10 years of CPT exemption (subject to certain limitations and qualifying criteria): "Light" industry; ship and aircraft-building; agricultural machinery producers; power-generating companies that utilize renewable energy sources; and three- four- and five-star hotels.

The following industry-specific tax incentives are available:

- For the publishing and cinematography industries (valid till January 1, 2015, and January 1, 2016, respectively)
- For enterprises selling domestically-produced energy-saving goods in Ukraine, up to 80% of profits may be tax exempt; and for enterprises adopting energy-saving projects, up to 50% of profits may be exempt
- Certain incentives are available for taxation of profit of investment funds
- Taxable gains on sales of securities are subject to a reduced CPT rate of 10%
- There are also certain tax incentives for the fuel and energy sectors and for enterprises supplying water, heat, and wastewater disposal services.

Ukraine also offers generous depreciation rates for most fixed assets, including property, plant, and equipment for both foreign and domestic investors.

6. Right to Private Ownership and Establishment

The Constitution of Ukraine guarantees the right to private ownership, including the right to own land. Ukraine's Law "On Ownership" recognizes private ownership and stipulates that Ukrainian residents, foreign individuals, and foreign legal entities may own property in Ukraine. Property owners, including foreign investors and joint ventures, may use property for commercial purposes, lease property, and keep the revenues, profits, and production derived from its use. However, the law is not comprehensive, and mechanisms for transferring ownership rights are weak. Some difficulties have arisen when foreigners acquire majority control of enterprises, with the government or the current management in some cases continuing to exercise effective control of company decisions.

The Land Code (2001) provides for foreign ownership of non-agricultural land and clarifies the rights of foreign investors, and addresses the right of individuals to own, buy, and sell land. It classifies land into seven categories based on potential use, including agricultural, industrial, and natural reserve lands. While industrial-use land can be bought, sold, and mortgaged, Ukraine's parliament set a moratorium on the purchase of agricultural lands, through 1 January 2016.

Ukrainian-registered land management companies for the purchase of non-agricultural land, and the management of (all types) land in Ukraine are permitted. The Land Code codifies the state's right to oversee private land transactions via registration, the court system, and dispute mediation, as well as broad government/state rights to "influence" the land market.

7. Protection of Property Rights

Real Property

Ukraine has a functioning registry of real property and mortgages. The Land Cadaster Law of July 2012 provided for a single land registry; its 2013 launch marked an improvement in land ownership protection. Local media estimated that 5% of land in Ukraine does not have clear title. Ukraine has improved its ratings in registering property in the WB Ease of Doing Business ratings from #158 in 2013 to #98 in 2014.

Since 2000 Ukraine has laid the legislative and administrative groundwork for a functioning mortgage market. Adoption of the Laws "On Withholding Land Shares in Kind" in 2002 and "On Mortgages" in 2003 was particularly important. The government of Ukraine created the State Mortgage Institution (SMI) in 2004 as a liquidity facility largely aimed at putting downward pressure on lending rates by allocating capital efficiently. The SMI began issuing corporate securities during the first quarter of 2007. SMI's actions, which were intended to bring liquidity to the market, had limited success due to unfavorable conditions for lending development after the 2009 financial crisis. In line with the mortgage situation, the SMI raised its annual interest rate to 18% November 2012, pushing the final mortgage rates for the customer to as high as 21%. New lending stalled due to the 2008 financial crisis, and came to a virtual standstill after Ukraine banned new mortgage lending to private persons in foreign currency in November of 2009.

According to the Ukrainian government's own estimates, 40% of economic activities in the country are conducted in the informal sector.

Intellectual Property Rights (IPR)

As noted, the new government came to power only recently. It has so far shown a strong commitment to increase transparency and the rule of law, which could aid in the introduction of a modern IPR system in Ukraine. The prospects for improvement of IPR protection may thus be improving. Following is excerpted from USTR's 2013 Special 301 Review, released May 1, 2013:

"As a result of the 2013 Special 301 Review, the U.S. Trade Representative (USTR) designates Ukraine as a priority foreign country (PFC). This designation is the culmination of several years of growing concern over widespread IP theft, including the growing entrenchment of IPR infringement that is facilitated by government actors.

During intensive bilateral engagement, Ukraine has made a series of commitments to make specific improvements in the areas of government use of pirated software, nontransparent administration of royalty collecting societies, and online piracy. Notably, Ukraine and the United States agreed to an IPR Action Plan in 2010, which Ukraine publicized in 2011.

Implementation of this plan was the subject of intensive bilateral engagement in 2012, including through the Trade and Investment Council meeting. Unfortunately, the situation has continued to deteriorate on each of the issues identified below. Recent efforts on the side of the government of Ukraine have not gone far enough to demonstrate a commitment to resolving long-standing problems.

The United States is deeply concerned by the deterioration of the entire system for collecting and disbursing music royalties in Ukraine. Ukraine has recognized that it has a significant problem with the operation of illegal or "rogue" collecting societies, i.e., organizations that collect royalties by falsely claiming they are authorized to do so. Such organizations tend to operate without adequate transparency and rarely disburse sufficient funds that they collect to the rights holders entitled to the royalties. The government has not prosecuted several rogue collecting societies -- even societies that the government of Ukraine determined were collecting money without the necessary authorization.

Furthermore, in 2012, the State Intellectual Property Service of Ukraine revoked the authorization of the Ukrainian Music Rights League, a collecting society that producers report had fairly disbursed royalties. This action has been credibly characterized as an attempt to empower rogue collecting societies, including a rogue collecting society that reportedly has strong ties to government officials. Moreover, in August 2012, Ukrainian courts issued a ruling that eliminated the current procedure for accrediting all collecting societies. Currently there are no authorized collecting societies for producers' or performers' rights in Ukraine.

Moreover, despite committing to promoting legislation to improve the collecting society system, the only legislative amendment proposed to change the collecting society system was an amendment proposed by the government in January 2013 which appeared to empower the aforementioned rogue collecting society that has ties to government officials. That amendment has been withdrawn, but no alternative has been proposed.

The current system of collecting societies in Ukraine institutionalizes misappropriation of royalties. Ukraine must implement a fair and transparent system for authorizing collecting societies as soon as possible and must provide rights holders with a fair and transparent mechanism for enforcing their rights.

The United States has repeatedly conveyed its concern about software piracy in Ukraine. The government of Ukraine acknowledges that a significant percentage of the software used by the government itself is unlicensed. The most recent industry data identify Ukraine as having a higher software piracy rate than almost all other countries on the Priority Watch List. Ukraine has acknowledged the need for the government to use legal software, and has issued repeated official documents calling for such legalization as far back as 2002, and most recently, in April 2013.

However, these statements have not produced results. In the past, the government of Ukraine has stated that it will allocate funds that are “necessary to transition government ministries to licensed software, to include training for inspectors, as well as ongoing technical assistance to each Ministry in setting up an internal monitoring and compliance system,” but has failed to do so. While the government of Ukraine budgeted 100 million UAH (\$12.3 million) for 2013 software legalization in state institutions (which the government of Ukraine admits does not reflect the value of the illegal software being used), the government has not spent this money or taken other steps toward legalization, and disbursement of the funds is uncertain. Ukraine must adopt a transparent and effective system to transition to the use of legal software by the government and ensure that legal software is used on an ongoing basis.

The United States has repeatedly raised its strong concerns about the significant and growing piracy of copyrighted content. Optical disc piracy was one of the principal reasons underlying the U.S. decision to add Ukraine to the Watch List in 1998, the Priority Watch List in 1999 and 2000 and to designate Ukraine a PFC from 2001 through 2005. Online piracy now has significant and growing consequences for both the Ukrainian market and for international trade.

For example, ExtraTorrent.com, which is based in Ukraine, professes to be “The World’s Largest BitTorrent System.” This site is the 76th most visited site in India, and among the top 200 sites in six other countries (including the United Kingdom and Australia), illustrating how Ukraine has become perceived as a safe haven for online piracy enterprises serving other markets.

There was not a single online piracy-related conviction in Ukraine in 2012. In late January 2012, the government of Ukraine seized servers as part of a criminal investigation into EX.UA, which is both the country’s twelfth most visited website and a prolific source of infringing international music, software, and video (It also appears on USTR’s Notorious Markets list.). Following intense negative public reaction, and public statements in support of the website by influential figures, the site reopened shortly thereafter and continues to monetize infringing content today. The United States views the few ad hoc and nontransparent government actions against online piracy as underscoring the need for Ukraine to establish a predictable and transparent system to combat online piracy. Enhanced interagency coordination, consultation with all affected stakeholders and targeted legal reforms to provide clarity and predictability are necessary to creating an adequate and effective strategy to combat online piracy.

Other IPR Concerns

In addition to the acts, policies, and practices that are the grounds for this PFC designation, the United States remains concerned about other IPR matters discussed in previous Special 301 Reports. Industry has reported that criminal prosecution for counterfeiting crimes are

stalled and ineffective, and that seized goods are not disposed of or released in a timely manner.

Additionally, large amounts of counterfeit products, as well as pirated goods, are openly sold in physical market in Ukraine. The United States will continue to engage Ukraine bilaterally on these and other matters, outside of the Section 301 investigation.

The acts, policies, and practices described as the grounds for PFC have cumulatively resulted in significant financial damage to U.S. copyright-related industries, including the foregone market opportunities and the impact on the markets in other countries. Intensive bilateral engagement by the United States has not resulted in meaningful change, and the situation in Ukraine appears to have worsened rather than improved.

Patents and Trademarks

Trademarked and copyrighted goods must be registered for a fee in the Customs Service's rights holder database in order to be guaranteed protection. Counterfeit goods, including products containing protected trademarks, remain readily available. Counterfeit apparel is particularly common. Most counterfeit goods are not produced in Ukraine, although industry has reported instances of counterfeit cigarette production. The amount of counterfeit pesticides on the market has increased, now accounting for a significant percentage of the market, according to industry. government of Ukraine officials recently seized large quantities of counterfeit pesticides, but industry representatives have raised concerns that the pesticides will not be disposed of properly, as Ukraine lacks the technical capability to destroy some forms of counterfeit pesticides.

Judicial System for IPR Protection

Civil IPR lawsuits remain rare because of a general lack of confidence in Ukraine's legal system, and because few judges are properly trained in IPR law. Law enforcement officials and industry also complain that too many IPR cases result only in small fines, which do not deter illegal activity. In some cases, infringing companies have won dubious and nontransparent court decisions that appear to violate the patent and trademark rights of other companies.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: Larry Pixa Pixald@state.gov

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

8. Transparency of the Regulatory System

Ukraine's weak institutional framework, plagued by corruption and poor governance, causes low levels of competition and high barriers to entry and exit to businesses. Ukraine ranked 137 of 148 countries in terms of institutional framework according to the World Economic Forum's 2013/2014 Global Competitiveness Index. Ukrainian regulatory institutions are characterized by poor transparency of government policy making, high favoritism in decisions of government officials, poor judicial independence, weak protection of property rights and minority shareholders' interests, highly irregular payments and bribes, burdensome

government regulation, inefficient legal framework in settling disputes and challenging regulations, poor ethical behavior of firms, and weak auditing and reporting standards.

Ukraine's highly inefficient goods market entails a great deal of unnecessary government intervention and distortionary practices, stifling competition and earning Ukraine a ranking of 124 of 148 countries in goods market efficiency. Ukraine's goods market is characterized by high degree of unfavorable business impact of rules on Foreign Direct Investment, burdensome customs procedures, low prevalence of foreign ownership, high adverse effects of taxation on incentives to invest, high degree of market dominance, weak effectiveness of anti-monopoly policy, high agricultural policy costs, and high prevalence of non-tariff trade barriers.

9. Efficient Capital Markets and Portfolio Investment

Banking

The Ukrainian banking system consists of the National Bank of Ukraine (NBU, the central bank) and commercial banks. The NBU is responsible for monetary policy, licensing of commercial banks, and oversight of their activities. Foreign capital represents 34% of total capital in the banking sector as of March 2014. In absolute terms, the banking sector is still fairly small, and highly concentrated: the top 20 Ukrainian banks control 70% of assets in the system. Total bank assets in Ukraine are about \$127 billion, with total loan assets of \$79 billion as of January 2014.

The 2008-2009 financial crisis brought corporate and consumer lending to a near standstill; its consequences continue to burden the banking system, with about 40% of its assets identified as non-performing. Insufficient foreclosure and bankruptcy procedures prevent fast resolution of bad debt, forcing banks to accumulate large provisioning to cover possible losses, which limits lending opportunities and slows recovery. However, the government has begun cleaning up the loan portfolio, and plans further stress-testing to identify capitalization needs.

The 2002 law "On Banks and Banking Activity" eliminated discrimination against foreign-owned banks. Foreign-licensed banks may carry out all activities conducted by domestic banks, and there is no ceiling on participation in the banking system, including operating via subsidiaries. In 2006, the Rada approved permitting foreign banks operating via branch offices.

A foreign company can open a bank account in Ukraine for the purposes of investment operations; otherwise it needs to register a representative office in Ukraine. A nonresident private person can open a bank account in Ukraine.

Legislation aimed at protection from hostile takeovers cover both domestic and foreign companies. However, hostile takeovers have been a common problem given the poor rule of law.

Capital Markets

The government of Ukraine gives preference to attracting real rather than portfolio investment. The capital market for portfolio investment is slim and lacks sufficient liquidity. The local institutional investment sector, including private pension investment, is fragile. Ukraine has ten operational privately-owned stock exchanges, with the largest trade volumes conducted at three major exchanges. These exchanges operate largely in compliance with

international best practices, and there is increasing competition in the sector. Currently, over 90% of trading takes place "on exchange" as a result of "off-exchange" transaction fees. The remaining exchanges are largely "pocket exchanges" that rely on revenue from sales of state-owned enterprises. Ukraine has accepted the obligations under Article VIII of the IMF agreement in 1996, and refrains from restrictions on current international transactions.

There are no legal restrictions on the free flow of financial resources needed to support growth in the product/factor markets. Credit is largely allocated on market terms and foreign investors are able to get credit on the local market, utilizing a variety of credit instruments. However, the market environment has long lacked transparency; enforcement of key laws and regulations has been weak, and investors, both domestic and foreign, continue to face significant uncertainty. The National Securities and Stock Market Commission (NSMSC) and Financial Services Regulator (FSR) have insufficient enforcement power, and their rulings are not always followed by the courts. The NSMSC and FSR also face problems with budgetary and political independence. That said, the new government has pledged to increase transparency and strengthen enforcement, and initial indications have been positive.

10. Competition from State-Owned Enterprises (SOEs)

Ukraine's state sector was largely privatized in the 1990s and early 2000s, and is now estimated to comprise less than 10% of the economy. Nonetheless, according to the Ministry of Economic Development and Trade, the state sector is one of the largest in Europe and contains more than 5,000 business entities. The sector is inefficient and often unprofitable.

The majority of SOEs rely on government subsidies to function, and cannot directly compete with private firms. Most of the SOEs capable of making a profit have already been privatized, leaving mainly inefficient firms in government hands. Private firms, however, are barred, under Ukrainian law, from engaging in certain types of business, including in the areas of certain natural monopolies, the rocket industry, and the production of bio-ethanol. The government has heavily subsidized its state-owned enterprises (especially in the coal mining, rail transportation, gas and communal heating sectors) to keep them operating. The government long resisted raising consumer gas prices to market levels, forcing the state energy monopoly, Naftogaz, to run massive operating deficits. However, the new government has agreed to raise gas tariffs as a condition of a lending agreement with the IMF.

Research and development are practically non-existent in the energy sector. The nuclear, hydroelectric, and extractive industries are run at a loss, with any potential profits siphoned off through corruption schemes, so little remains to invest in new equipment, let alone R&D.

SOE senior management reports directly to the relevant ministry, which has the authority to appoint the firm's management. Ukrainian law specifies that the ministries are not permitted to interfere with the daily economic activities of an SOE, but anecdotal reports indicate that this restriction is often ignored. Ministries have the power to decide on the creation, reorganization, and liquidation of SOEs; adopt and enforce SOE charters; conclude and cancel contracts with SOE executives; grant permission to the State Corporate Social Property Fund to create joint ventures with state property; and prepare proposals to divide state property between the national and municipal levels. Ukraine does not maintain or operate a sovereign wealth fund.

11. Corporate Social Responsibility (CSR)

Corporate Social Responsibility has not yet taken hold in the mind of the consumer and is just beginning to gain ground amongst producers in the country. Ukraine does not adhere to generally accepted CSR principles such the OECD Guidelines for Multinational Enterprises.

International companies continue to be the strongest proponents of CSR within Ukraine and have made efforts to transfer the idea of CSR over to their Ukrainian affiliates. With help from the American Chamber of Commerce (ACC), the East Europe Foundation, the U.N. Global Compact Initiative, and other NGOs, Ukrainian companies have been made aware of the potential long-term benefits of CSR as they relate to positive exposure for a company. ACC has cited lack of interest from the business community and a commercial environment in Ukraine beleaguered with other investment difficulties. However, it has now partnered with a number of NGOs in promoting non-discriminatory policies in Ukrainian businesses.

A major obstacle is the lack of legislated tax incentives encouraging CSR. Therefore, companies must be willing to undertake CSR projects without tax or legislative assistance. Consumers do not expect companies to develop or finance projects that do not directly affect growth or profit, and there are few broad indications of social responsibility by consumers.

Though not required, foreign firms in Ukraine generally follow and are judged by NGOs on the following standards: AccountAbility's AA1000 standard, Global Reporting Initiative's Sustainability Reporting Guidelines, Verite's Monitoring Guidelines, Social Accountability International's SA8000 standard, and the ISO 14000 Environmental Management Standard. The Centre for CSR Development Ukraine is an active proponent of CSR.

12. Political Violence

Large-scale political protests began across Ukraine in November 2013, when then-President Yanukovich announced his decision to reverse years of progress toward an Association Agreement with the EU. Several periods of intense violence marred the otherwise peaceful protests, particularly when the Yanukovich regime conducted periodic crackdowns on the protests between November 2013 and February 2014. Civil society groups, activists, and journalists in particular, were the targets of violence by the previous regime and by pro-Russian elements in Ukraine. President Yanukovich fled the country February 22 and the Rada established an interim government and called for new presidential elections. In Ukraine's east and south, protests against the government in Kyiv have taken place in parallel with armed and sometimes violent attacks and provocations from Moscow-sponsored pro-Russian forces. The situation remains tense and unpredictable, and the presence of Russian military forces in Crimea and on the Ukrainian border as well as Russian-sponsored agents provocateurs in eastern Ukrainian cities have caused great concern about future unrest.

More generally, incidents of racially-motivated violence occasionally occur; groups of "skinheads" and neo-Nazis sporadically target people of color, members of religious minorities, and people perceived as lesbian, gay, bisexual, or transgender (LGBT) in Kyiv and throughout Ukraine.

13. Corruption

Corruption, which pervades all levels of society and government and all spheres of economic activity in Ukraine, has long been a major obstacle to foreign investment. The full

scale of corruption at the highest levels was revealed after the fall of the Yanukovich regime, when all but \$500,000 remained in the treasury account, and officials departed with billions of dollars of public funds. As fighting corruption was one of the primary tenets of the Euromaidan protests, the new government has pledged to eliminate corruption, and has taken several positive steps, including passing a new law on public procurement in April, which addressed some of the existing shortcomings of the previous law. However, the problem runs deep, and fighting will take considerable time and effort.

The government has proposed two new anti-corruption entities, which remain in the conceptual stage, and may not be formed and funded before 2015. One is an anti-corruption law enforcement investigation agency, for which draft legislation is pending, which would take over the Prosecutor General's responsibilities for investigating and prosecuting corruption. The other is an anti-corruption prevention and detection bureau for which legislation is being drafted. The functions are under considering, but may include setting anti-corruption and ethics policies, making criminal referrals, managing hotlines for complaints, promoting public awareness and accountability, and protecting whistleblowers. A prospective leader, a journalist with significant anti-corruption investigative experience, has been identified.

Corruption stems from such factors as such as a lack of institutional transparent decision-making and low societal understanding of the importance of corporate governance. That said, opinion polling shows increasing public frustration and anger with official corruption, which helped to mobilize the Maidan protests. Low public sector salaries fuel corruption in local administrative bodies such as the highway police, the health system, the tax administration, and the education system. Corruption within the Customs Service often makes it more difficult and more costly for businesses to import/export goods. Agricultural firms, for example, have been affected by significant overvaluation of imports. High-level corruption ranges from misuse of government resources and tax evasion to non-transparent privatization and procurement procedures.

Ukraine's guiding authority on corruption is the 2011 law "On Corruption Prevention and Counteraction," whose articles on Financial Controls came into force in 2012, but has been rarely enforced. Over the years, Ukraine adopted several strategies aimed at fighting corruption, though to little effect. In 2011, President Yanukovich announced a National Strategy on Fighting Corruption, creating an anti-corruption committee, but the committee never convened.

Although government action is still limited and uncoordinated, a regulatory and legislative framework to address corruption is slowly being developed. In 2005, Ukraine ratified the Council of Europe Civil Law Convention on Corruption and became a member of the Council of Europe's Group of States Against Corruption (GRECO). GRECO concluded its Joint First and Second Rounds of Evaluation of Ukraine and published its report in 2007. The Third Round Evaluation Report was published in 2011, with recommendations for improvements in criminalizing corruption offenses and transparency of financing political parties. In this transitional period, resources to report corruption are limited.

Ukraine also participates in the OECD Anticorruption Network for Eastern Europe and Central Asia. Parliament passed laws to ratify the Council of Europe Criminal Law Convention on Corruption, signed in 1999, and the UN Anticorruption Convention, signed in 2003. However, ratification of these Conventions will come into effect only when additional implementing

legislation is adopted. Ukraine is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

In 2010 the State Department funded a new Resident Legal Advisor from the U.S. Department of Justice, focusing on ethics, asset declaration, and internal investigative units.

14. Bilateral Investment Agreements

Bilateral Investment Agreements

The Bilateral Investment Treaty between the United States and Ukraine came into force on November 16, 1996. The following countries have also signed bilateral investment agreements with Ukraine: Albania (2004), Austria (1996), Argentina (1995), Armenia (1994), Azerbaijan (1997), Belarus (1995), Belgium (2001), Bosnia and Herzegovina (2002) Bulgaria (1994), Brunei (2006), Canada (1994), Chile (1995), China (1992), Cuba (1995), Croatia (1997), the Czech Republic (1994, amended 2010), Denmark (1992), Equatorial Guinea (2005), Egypt (1992), Estonia (1995), Finland (2005), France (1994), Gambia (2006), Georgia (1995), Germany (1993), Great Britain and Ireland (1993), Greece (1994), India (2001), Indonesia (1996), Iran (1996), Israel (1995), Italy (1995), Jordan (2005), Hungary (1995), Kazakhstan (1994), Congo (2010), Korea (1996), Kuwait (2002), Kyrgyzstan (1993), Latvia (1997), Lebanon (1996), Libya (2001), Lithuania (1994), Macedonia (1998), Morocco (2001), Moldova (1995), Mongolia (1992), Nigeria (2010), the Netherlands (1994), OAE (2003), Oman (2002), Panama (2005), Poland (1993), Portugal (2003), Russia (1998), San Marino (2006), Saudi Arabia (2009), Singapore (2006), Syria (2002), Slovakia (1994), Slovenia (1999), South Korea (1996), Spain (1998), Sweden (1995), Switzerland (1995), Tajikistan (2001), Turkmenistan (1998), Turkey (1996), Uzbekistan (1993), Vietnam (1994), Yugoslavia (2001), Yemen (2002).

The United States and Ukraine signed a Trade and Investment Cooperation Agreement (TICA) in 2008. The TICA established a joint U.S.-Ukraine Council on Trade and Investment, which works to increase commercial and investment opportunities by identifying and removing impediments to bilateral trade and investment flows. The Council last met in in 2012, and held a working-level sub-group meeting in Kyiv in 2013.

15. OPIC and Other Investment Insurance Programs

The U.S.-Ukraine Overseas Private Investment Corporation (OPIC) Agreement was signed in Washington in 1992. OPIC resolved a long-standing dispute in 2009, and restored its programs in Ukraine after an extended hiatus. In 2002, the Board of the U.S. Export-Import bank opened facilities for short and medium-term (up to seven years) lending for commercial and sub-sovereign projects. Ukraine is a member of the Multilateral Investment Guarantee Agency (MIGA). In 2010 OPIC concluded an agreement enabling the Ukrainian Development Network (UDN) to serve as an originator for a growing alliance with the private sector designed to support small and medium-sized enterprises expanding into emerging markets overseas.

16. Labor

Labor Availability

Ukraine has a well-educated and skilled labor force (about 21-22 million people) with nearly a 100% literacy rate. As of January 1, 2014, unemployment (ILO methodology) averaged 7.7%, although unemployment in some regions, particularly in western Ukraine and central

Ukraine, was significantly higher. According to government statistics, which counts only those officially registered to receive unemployment benefits, employment was only 1.8% as of January 2014 and 1.9% as of March 2014. In February, the unemployment insurance allotted to each worker amounted to UAH 1141 or approximately \$100.

Wages and Conditions of Work

Wages in Ukraine remain low by Western standards. In February, 2014 the nominal average monthly wage increased by 4.8% year-on-year to UAH 3,189 (about \$362), while the real average wage increased by 3.6% year-on-year during the same period. The highest wages are traditionally in the financial and aviation sectors; the lowest wages are paid to agricultural and public health workers. As of March 1, 2014, wage arrears equaled almost UAH 998 million (approx. \$ 100 million), a 23.5% increase from January 1. The biggest arrears accumulated in industry, transport and construction sectors.

Minimum Wage

As of December 1, 2013 the minimum monthly wage is UAH 1,218 (approximately \$105), which by law equals the monthly subsistence level. The 2014 state budget does not include minimum wage increases, adjusting only for inflation, owing to the government's focus on stabilizing the financial situation.

The law prohibits all forms of forced or compulsory labor. The law sets 16 as the minimum age for most employment and 18 as the minimum age for hazardous jobs. Ukraine has a 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. The law provides for double pay for overtime work and regulates the number of overtime hours allowed. The law requires that all overtime be agreed upon with the respective local trade union organization and sets limits on the number of allowable overtime hours. The law contains occupational safety and health standards and provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment.

Labor/Management Relations

Ukrainian law allows workers to organize, and unions are prevalent in most industries. The law provides most workers with the right to form and join independent unions and to bargain collectively without previous authorization. By law, trade unions are equal, and a union's establishment does not require government permission. Within classic sectors of the economy, sector-specific collective bargaining agreements involve representative employers' associations (e.g., chemical employers), sector trade unions, and some participation of the government through the Ministry of Social Policy. Such agreements can also take place at the regional level.

The constitution grants the right to strike, and by law most workers have the right to strike. There were noteworthy obstacles to calling a strike, however, including the requirement that a large percentage of a workforce vote in favor of striking and vague legal authorities which can be invoked to judicially deny a strike. On the whole work stoppages in Ukraine are infrequent.

Although investors may encounter government resistance to trimming the work force to an efficient level, across-the-board demands to maintain employment levels are disappearing. Ukrainian enterprises often still maintain much of the social infrastructure of their immediate

community (schools for local children, cafeterias, and medical facilities). While many local officials are willing to work with businesses to identify social services that an enterprise must support, such arrangements should be clearly spelled out before investments are started.

Ukraine's outdated Labor Code dates to 1971 and remains inappropriate for a market economy. The lack of a modern Labor Code hurts workers, whose rights are not clearly defined and protected, and employers, who face rules that make it hard for them to conduct business. Drafted in part with ILO and other international experts' guidance, the updated Labor Code has idled in parliament, where it has not moved beyond its first reading in 2008. It has since undergone multiple revisions but remains unpassed.

17. Foreign Trade Zones/Free Trade Zones

Ukraine has maintained special or free economic zones (SEZs-FEZs), but in 2005 the government canceled tax exemptions (i.e., from land tax, corporate income tax, import duty, and VAT) to investors in SEZs-FEZs to stop the misuse of these zones for tax evasion and smuggling.

18. Foreign Direct Investment Statistics

Foreign Direct Investment

According to official data, as of January 2014, the total stock of FDI in Ukraine was \$58.16 billion or approximately \$1,284 per capita, representing a 5.2% increase from January 1, 2013.

FDI by Country

In 2013, Ukraine's major investors included: Cyprus (32.7% of FDI), Germany (10.8%), the Netherlands (9.6%), Russian Federation (7.4%), Austria (5.6%), the United Kingdom (4.7%), the British Virgin Islands (4.3%), France (3.1%), Switzerland (2.3%), and Italy (2.2%). U.S. investment comprised 2.0% of FDI. Many Ukrainian and Russian enterprises continue to channel investments through Cyprus due to a favorable bilateral tax treaty. In 2012, Ukraine signed a Double Taxation Convention with Cyprus to replace the current bilateral agreement dating from 1982. Under the new treaty, which was ratified by the Rada in July 2013 and entered into force in August 2013, most income earned in Cyprus is taxed between 5% and 15%, reducing the tax gap between the two countries. While the Ukrainian government announced plans to introduce a 12% tax on the operations of companies registered in offshore countries (in order to increase collections to the Pension Fund), Cyprus was not designated in the list of offshore countries.

FDI by Industry Sector Destination

31% of FDI went to industry of which 11.1% was to the steel industry, 5.6% for the food processing and tobacco industries; 3.0% for the production of natural resources; 2.5% to the chemical industry; and 1.8% to machine-building industries. 29.7% goes to the financial sector of which 11.1% for trade and auto repairs and 7.2% for the real estate sector.

FDI from Ukraine

As of January 1, 2014, Ukraine's FDI to other countries equaled almost \$6.57 billion. 88.5% of Ukrainian investment (or \$5.818 billion) went to Cyprus. Cyprus is a popular destination for Ukrainian capital due to a lucrative double taxation agreement between Ukraine and

Cyprus concluded in 1982 (see above). The second largest destination for FDI from Ukraine is Russia, which received 5.5 % (or \$363 million) of Ukraine's FDI.

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:

civil law system; judicial review of legislative acts

International organization participation:

Australia Group, BSEC, CBSS (observer), CD, CE, CEI, CICA (observer), CIS (participating member, has not signed the 1993 CIS charter although it participates in meetings), EAEC (observer), EAPC, EBRD, FAO, GCTU, GUAM, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFC, IFRCs, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITU, ITUC (NGOs), LAIA (observer), MIGA, MONUSCO, NAM (observer), NSG, OAS (observer), OIF (observer), OPCW, OSCE, PCA, PFP, SELEC (observer), UN, UNCTAD, UNESCO, UNIDO, UNMIL, UNMISS, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO, ZC

Section 6 - Tax

Exchange control

Currency operations that take place in Ukraine fall under state currency control regulations, a key feature of which is the concept of residency.

Only local currency (UAH) may be used in business transactions between residents. Residents and non-residents involved in international trade and investment transactions generally use a foreign currency.

Foreign currency proceeds received by a company from its foreign clients must be credited to a local bank account within 180 days of the export date of the services or goods (this is reduced to 90 days for a temporary period of six months from 19 November 2012). Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the proceeds for each day of the delay.

Goods must be imported into Ukraine within 180 days of prepayments being made by a Ukrainian company to its suppliers (this is reduced to 90 days for a temporary period of six months from 19 November 2012). Failure to comply with this provision will result in the Ukrainian company being liable to pay a penalty of 0.3% of the cost for each day of the delay.

Certain other transactions involving local and foreign currencies are subject to licensing by the National Bank of Ukraine (e.g. settlements made in a foreign currency on Ukrainian territory). Ukrainian residents are also required to obtain an individual license to make investments abroad.

For a temporary period of six months from 19 November 2012 all entities are required to sell at least 50 % of income they receive in specified foreign currencies (US Dollars, Euros, British Pounds and Swiss Francs), precious metals and Russian roubles.

Treaty and non-treaty withholding tax rates

As of December 2012, Ukraine has up to 70 double tax treaties in effect. Withholding taxes on interest, dividends and royalties are typically reduced by the treaties. A summary of withholding rates under the various treaties is provided in the table below.

Taxpayers do not require confirmation from the tax authorities before claiming relief under a treaty. However, the withholding agent must hold a certificate of residence from the treaty country for the person to whom income is paid. The certificate should be provided to the tax authorities no less than once every two years.

In addition to the above, the Tax Code requires the recipient of all types of income from Ukraine to be the beneficial owner (actual recipient) of the respective income. Agents, nominee holders and other intermediaries in respect of the received income cannot be beneficial owners of income sourced in Ukraine, and, therefore, are not entitled to favourable treaty provisions.

Country	Dividends (%)		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio	(%)	(%)
Domestic rates:				
Non-resident individuals	15	15	5/15 (4)	15
Non-resident corporations	15	15	15	15
Treaty rates:				
Algeria	5	15	10	10
Armenia	5	15	10	0
Austria	5	10	2/5 (5)	0/5
Azerbaijan	10	10	10	10
Belarus	15	15	10	15
Belgium	5	15	2/10 (5)	0/10
Brazil	10	15	15	15
Bulgaria	5	15	10	10
Canada	5	15	10	0/10
China (PRC)	5	10	10	10
Croatia	5	10	10	10
Cyprus (6)	0	0	0	0
Czech Republic	5	15	5	10
Denmark	5	15	0/10 (7)	0/10
Egypt	12	12	12	12
Estonia	5	15	10	10
Finland	0/5 (8)	15	5/10 (7)	0/5/10
France	0/5 (9)	15	2/10 (5)	0/5/10
Georgia	5	10	10	10
Germany	5	10	2/5 (5)	0/5
Greece	5	10	10	10
Hungary	5	15	10	5
Iceland	5	15	10	10
India	10	15	10	10
Indonesia	10	15	10	10
Iran	10	10	10	10
Israel	5/10	15	5/10 (10)	10
Italy	5	15	10	7
Japan (6)	15	15	10	0/10
Jordan	10	15	10	10
Kazakhstan	5	15	10	10
Korea (ROK)	5	15	5	5
Kuwait	5	5	0	10
Kyrgyzstan	5	15	10	10

Country	Dividends (%)		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio	(%)	(%)
Latvia	5	15	10	10
Lebanon	5	15	10	10
Libya	5	15	10	10
Lithuania	5	15	10	10
Macedonia	5	15	10	10
Malaysia (6)	15	15	15	10/15
Mexico	5	15	10	10
Moldova	5	15	10	10
Mongolia	10	10	10	10
Montenegro	5	10	10	10
Morocco	10	10	10	10
Netherlands	0/5 (11)	15	2/10 (5)	0 / 10
Norway	5	15	10	5 / 10
Pakistan	10	15	10	10
Poland	5	15	10	10
Portugal	10/15 (12)	15	10	10
Romania	10	15	10	10/15
Russia	5 (3)	15	10	10
Saudi Arabia	5	15	10	10
Serbia	5	10	10	10
Singapore	5	15	10	7.5
Slovak Republic	10	10	10	10
Slovenia	5	15	5	5 / 10
South Africa	5	15	10	10
Spain (6)	15	15	0	0/5
Sweden	0/5 (14)	10	0/10 (5)	0/10
Switzerland	5	15	0/10 (5)	0/10
Syria	10	10	10	15
Tajikistan	10	10	10	10
Thailand	10	15	10/15 (10)	15
Turkey	10	15	10	10
Turkmenistan	10	10	10	10
United Arab Emirates	5	15	3	0/10
United Kingdom	5	10	0	0 (15)
USA	5	15	0	10
Uzbekistan	10	10	10	10
Vietnam	10	10	10	10

(1) The ownership threshold for the non-portfolio rate is 10%, 20%, 25% or 50%, depending on the specific provisions in the treaty.

- (2) Several treaties contain a rate of 0% on interest paid to or guaranteed by a government or one of its agencies.
- (3) If more than one rate is shown, this means that the rate will depend on the type of royalties paid.
- (4) The lower rate applies to interest on current or deposit bank accounts, certificates of deposit, contributions to a credit union, and participatory and fixed-yield mortgage certificates.
- (5) The lower rate applies to interest paid on certain credit sales, and on loans granted by a financial institution.
- (6) The treaties with Cyprus, Japan, Malaysia and Spain were entered into by the USSR before it dissolved. Ukraine will continue to honour these treaties, unless they are superseded.
- (7) The lower rate applies to interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, unless the indebtedness is between associated enterprises.
- (8) The 0% rate applies if the investor holds at least 50% of the capital of the company paying the dividends and the capital invested is at least USD 1,000,000; the payer of dividend should not operate in the field of gambling, show business or intermediation business, or auctions.
- (9) The 0% rate will apply if a French company or companies hold directly or indirectly at least 50% of the capital of the Ukrainian company, and the aggregate investments exceeds 5 million French francs.
- (10) The lower rate applies to interest paid on any loan granted by a bank.
- (11) *The 0% rate applies if the investor holds directly at least 50% of the capital of the company paying the dividends, and the capital invested is at least USD 300,000.*
- (12) *The 10% rate applies if the company receiving the dividend has, for an uninterrupted period of two years before the dividend is paid, owned at least 25% of the capital stock of the company paying the dividends.*
- (13) *The 5% rate applies if the capital invested is at least USD 50,000.*
- (14) *The 0% rate applies if the Swedish company holds directly at least 25% of the voting power of the company paying the dividends, and at least 50% of the Swedish company is held by Swedish residents.*
- (15) *The 0% rate applies only if the royalties are taxable in the United Kingdom.*

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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