

Bermuda

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Bermuda	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Not on EU White list equivalent jurisdictions Offshore Finance Centre
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations Weakness in Government Legislation to combat Money Laundering
<p>Major Investment Areas:</p> <p>Agriculture - products: bananas, vegetables, citrus, flowers; dairy products, honey</p> <p>Industries: international business, tourism, light manufacturing</p> <p>Exports - commodities: reexports of pharmaceuticals</p> <p>Exports - partners: Australia 17%, US 14.8%, Indonesia 12.6% (2012)</p> <p>Imports - commodities: clothing, fuels, machinery and transport equipment, construction materials, chemicals, food and live animals</p> <p>Imports - partners: South Korea 46.2%, US 21%, Singapore 9.9%, China 7%, Turkmenistan 4.8% (2012)</p>	
<p>Investment Restrictions:</p> <p>The GOB welcomes foreign direct investment and continually seeks to develop innovative new financial services and products that manage risk and facilitate the efficient flow of capital. Incorporating a company in Bermuda is a relatively straightforward, well</p>	

regulated, and efficient process, and the GOB has recently announced its intention to streamline the process even further.

Foreign investors should be aware that Bermudians generally feel strongly about ensuring that the assets of Bermuda benefit Bermudians, guaranteeing Bermudians have first preference with regard to employment, and retaining real property for the citizens of Bermuda.

Foreign investors interested in doing business in Bermuda should be aware of the 60/40 rule. To be classified as a "local" or "non-exempt" company, and able to conduct business within the local economy, a company normally must meet the following three requirements: (1) Bermudians must be beneficial owners of at least 60 percent of the shares in the company; (2) Bermudians must exercise at least 60 percent of the total voting rights in the company; and (3) Bermudians must make up at least 60 percent of the directors of the company.

Companies with non-Bermudian ownership of more than 40 percent wishing to do business in the local economy generally must apply to the Ministry of Finance for a license pursuant to the exemption provisions of section 114B of the Companies Act. Many hotels and telecommunications companies fall into this category. In recent years, the Ministry of Finance waived the 60/40 ownership restrictions as they apply to three of the island's four banks. A factor contributing to this decision may have been an interest in complying with Organization for Economic Cooperation and Development (OECD) guidelines that seek to eliminate separate regulatory regimes for local and international companies. In 2012, the ownership distinction between local/non-exempt and exempt companies began to narrow even further. In July 2012, Bermuda amended the Companies Act to allow companies listed on the Bermuda Stock Exchange to apply for a license to seek foreign investment over and above the 40 percent maximum foreign ownership. The GOB hopes that relaxation of the rule will attract foreign investment, increase liquidity in the local market, and boost the economy.

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Section 1 - Background

Bermuda was first settled in 1609 by shipwrecked English colonists headed for Virginia. Vacationing to the island to escape North American winters first developed in Victorian times. Tourism continues to be important to the island's economy, although international business has overtaken it in recent years. Bermuda has also developed into a highly successful offshore financial center. A referendum on independence from the UK was soundly defeated in 1995.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Bermuda 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 Bermuda was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Bermuda was deemed Compliant for 9 and Largely Compliant for 10 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 4 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Follow-Up Report (2013):

Since Bermuda's second follow-up report of May 2011, the jurisdiction has enacted amendments to the Proceeds of Crime Act 1997 (POCA); the Revenue Act 1898 (RA), the Insurance Act of 1978 (IA), the Banks and Deposit Companies Act 1999 (BDCA), the Investment Business Act 2003 (IBA), and the Trusts (Regulation of Trust Business) Act 2001 T(RTB)A. Bermuda has also enacted new legislation in the form of the Corporate Service Provider Business Act 2012 (CSP Act). The CSP Act became law on January 1, 2013, and is intended to regulate corporate service provider business and also for protecting the interests of clients and potential clients of persons carrying on corporate service provider business. The CSP Act requires CSPs to be licensed with, and supervised by the BMA. This action ensures that a prudential and AML/ATF regime for CSPs, under the aegis of the BMA, similar to that which was already in place for the trust industry, will not only enhance the efficiency of the corporate formation process but is also consistent with international best practice standards for the sector.

By way of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Designation Order 2012, Bermuda, in August 2012, established a new supervisory authority in the form of the Barristers and Accountants Anti-Money Laundering and Anti-Terrorist Financing Board (the Board) for legal and accountancy service businesses i.e. "Regulated professional firms". Therefore "independent professionals" i.e. persons carrying on legal and accountancy service business have now been brought under the scope of the AML/ATF Regulations and are therefore "relevant persons" pursuant to r. 2(1) and 4(b) of the said AML/ATF Regulations. Also, during 2012, the Minister of Justice approved the Guidance Notes for the Accounting and Legal Sectors

As already described in the 1st follow-up report, Bermuda has implemented measures in many specific areas to address some of the gaps identified in its Detailed Assessment Report with respect to the Key, Core and other Recommendations and Special Recommendations. These measures have had the effect of significantly closing the gaps discerned in the MER. The measures detailed below were however taken since the 1st follow-up report.

US Department of State Money Laundering assessment (INCSR)

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

Key Findings from the report are as follows: -

Perceived Risks:

Bermuda, a British Overseas Territory, is a major offshore financial center. It is the third largest reinsurance center in the world and the second largest captive insurance domicile. Bermuda is not considered a major drug transit country. To the extent money laundering occurs in Bermuda, it is believed to be principally related to the domestic drug trade. Money laundering proceeds are controlled primarily by drug trafficking organizations and domestic gangs, which have proliferated in recent years.

There is no significant black market for smuggled goods in Bermuda. There is no known money laundering/terrorist financing activity through free trade zones, or money or other value transfer services in Bermuda. However, there were cases where domestic criminals utilized the formal financial sector for money laundering purposes. Bermuda does not permit offshore banks. A foreign bank may establish a subsidiary as a Bermuda company with its own board of directors, but it may not establish a branch. Bermuda does not permit bearer shares, nor does it permit shell companies. Sports betting is legal, but online betting and casinos are not permitted; however, the Casino Gaming Act 2014, passed in December 2014, will permit casino gaming in future hotel developments, subject to the oversight of an independent gaming commission.

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: Combination approach
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO
KYC covered entities: Banks, trustees, securities brokers and financial management firms, long-term insurance companies, money service businesses, insurance managers and brokers, fund administrators, investment fund operators, and independent legal advisers and accountants

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 389: January 1 – November 17, 2015

Number of CTRs received and time frame: Not applicable

STR covered entities: All persons in the course of their trade, profession, business, or employment

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 13: January 1 – November 17, 2015

Convictions: 7: January 1 – November 17, 2015

RECORDS EXCHANGE MECHANISM:

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

With other governments/jurisdictions: YES

Bermuda is a member of the Caribbean Financial Action Task Force (CFATF), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

Effective April 1, 2014, the Customs Department became part of the Ministry of National Security, which supports collaboration among the various law enforcement agencies as they now are part of the same ministry. The Charities Act came into force on December 31, 2014, thereby bringing the charities sector under AML/CFT supervision. The Proceeds of Crime (Asset Retention) Amendment Act 2015 came into force in Bermuda on July 23, 2015. This act provides for Bermuda to retain 50 percent of funds repatriated at the request of another jurisdiction when the funds are deemed to be the proceeds of crime or from some form of unlawful conduct. The legislative framework for the regulation and supervision of corporate service providers (CSPs) has been passed by Parliament. CSPs will be supervised by the Bermuda Monetary Authority.

The majority of filed suspicious transaction reports (STRs) continue to show a trend of suspicious currency exchanges, with 75 percent of the STRs involving the exchange of Bermuda currency for a foreign currency, usually U.S. dollars. The Financial Intelligence Agency, Bermuda's financial intelligence unit, believes it is highly likely the reported cash exchanges are connected to Bermuda's drug trade. In 2015, cash seizures amounted to \$1,492,959 and forfeitures amounted to \$2,996,713. The Government of Bermuda works closely with international partners and the Bermuda Police Service continues to provide assistance to U.S. and other law enforcement agencies.

As a British Overseas Territory, Bermuda cannot sign or ratify international conventions. Instead, the UK, which is responsible for Bermuda's international affairs, may arrange to extend the ratification of any convention to Bermuda. The 1988 UN Drug Convention was extended to Bermuda in 1995. In 2014, two conventions were extended to Bermuda, the UN Convention Against Transnational Organized Crime and the International Convention for the Suppression of the Financing of Terrorism. The UN Convention Against Corruption (UNCAC) has not yet been extended to Bermuda; however, legislation has been reviewed and the necessary amendments will be made to ensure the articles of UNCAC are enshrined in the domestic legislative framework; this process is ongoing.

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

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

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

International Terrorism Financing Convention - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

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

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

EU White list of Equivalent Jurisdictions

Bermuda 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

Bermuda is considered to be an Offshore Financial Centre

US State Dept Trafficking in Persons Report 2012 (introduction):

Migrant workers are employed in Bermuda under a strict system of government work permits obtained by employers on behalf of the foreign workers. There were some reported cases of employers confiscating passports and threatening complaining migrant workers with having to repay the entire cost or the return portion of their airline tickets. Bermuda authorities and NGOs reported victims rarely lodge formal complaints out of fear of deportation. The Bermuda Industrial Union in 2009 began offering union protection to some migrant workers. There was one trafficking victim from Bermuda identified in the United States during the reporting period.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	88

Corruption and Government Transparency - Report by US State Department

Bermuda has a series of laws, regulations and penalties to combat corruption and, generally speaking, effectively enforces them. In 2012, Parliament passed the Good Governance Act 2012 to discourage financial abuse by ministers and members of the civil service and to protect whistleblowers. Under the Act, politicians who attempt to influence the award of government contracts could face a USD 10,000 fine and a year-long jail sentence. The penalties also apply to contractors and public officers found guilty of collusion. The Act also improved the transparency and accountability of government contracts, strengthened requirements for internal audits, and established an Office of Project Management and Procurement to strengthen oversight and control of government projects.

The Bermuda Criminal Code and the Proceeds of Crime Act provide for punishing corrupt practices in the area of investments, particularly for misleading statements and practices, market manipulation, and insider trading.

To distance itself from perceived impropriety often associated with offshore banking centers, Bermuda continues to update its regulatory framework to meet international standards, including those of the IMF, the Financial Action Task Force (FATF) and the OECD.

Section 3 - Economy

Tourism accounts for about 5% of Bermuda's GDP, but a much larger share of employment. Over 80% of its visitors come from the US. The sector struggled in the wake of the global recession of 2008-09. International business, which consists primarily of reinsurance and other financial services, is the real bedrock of Bermuda's economy, consistently accounting for about 85% of the island's GDP. Even this sector, however, has lost roughly 5,000 high-paying expatriate jobs since 2008, weighing heavily on household consumption and retail sales. Bermuda must import almost everything. Agriculture and industry are limited due to the small size of the island.

Bermuda's economy entered its seventh straight year of recession in 2015. Unemployment is 9%, public debt is growing and exceeds \$2.3 billion, the government pension fund faces a \$2.4 billion shortfall, and the economy has not attracted significant amounts of new foreign investment. Bermuda's FY 2015-16 budget projects a 12% larger deficit than FY14/15. The government announced it would borrow \$125 million in 2015 to meet current operating expenses. Still, Bermuda enjoys the fourth highest per capita income in the world, about 70% higher than that of the US.

Agriculture - products:

bananas, vegetables, citrus, flowers; dairy products, honey

Industries:

international business, tourism, light manufacturing

Exports - commodities:

reexports of pharmaceuticals

Exports - partners:

US 14.4%, Iceland 13.7%, Spain 6.8%, UK 5.8%, Mauritius 5.6% (2015)

Imports - commodities:

clothing, fuels, machinery and transport equipment, construction materials, chemicals, food and live animals

Imports - partners:

South Korea 49.5%, US 14.6%, Germany 11.4%, China 9%, Turkmenistan 5.2% (2015)

Banking

Bermuda has a strong, well developed banking system due to the huge international business sector domiciled in Bermuda. There are four banks licensed to operate in Bermuda. There is one global bank (Bank of Bermuda/member of HSBC group), one regional bank (Butterfield Bank), and 2 local banks (Capital G and Bermuda Commercial Bank) available for financial services, products and advice.

They offer a wide range of commercial banking facilities including comprehensive investment, trust, financial management services and direct access to a variety of currency alternatives. The English common law rule of confidentiality prevails on all accounts. Accounts can be maintained in most foreign currencies. Bermuda's banking sector is closely monitored by the International Monetary Fund (IMF), international risk rating agencies and the Bermuda Monetary Authority (BMA). The BMA is the integrated regulator of the financial services sector in Bermuda, including monitoring anti-money laundering, which is deemed crucial to the ongoing financial reputation of the island.

Many banking transactions are done electronically and a majority of the population use Internet banking. Internet banking has become a common channel through which Bermudians perform cash transfers and pay for services.

Stock Exchange

The U.S. Securities and Exchange Commission recognized the Bermuda Stock Exchange (BSX) as a —Designated Offshore Securities Market in October 1996. Three years later it became a full member of the International Federation of Stock Exchanges.

In 2005, the BSX was granted Designated Investment Exchange status by the UK Financial Services Authority. The BMA provides oversight of the BSX and its trading activity. The BSX introduced an electronic clearing, settlement and registration system designated as the Bermuda Securities Depository (BSD), which is also under the supervision of the BMA. The BSD was designed to facilitate more efficient trade settlement for BSX-listed securities by allowing book entry settlement rather than paper based settlement. Some examples of companies listed on the BSX include: ACE Limited, Argus Group of Companies, Bermuda Commercial Bank, Butterfield Bank, Deutsche Bank AG, HSBC Corporate Money Funds and Orbis.

Executive Summary

Bermuda is a British Island territory located in the North Atlantic Ocean. The government of Bermuda (GOB) welcomes foreign direct investment (FDI). Bermuda’s economy is almost wholly dependent on FDI in the insurance, reinsurance, and financial services sectors – with a small contribution from the tourist sector. In 2014, the latest date for which data is available, these international businesses contributed the most to total GDP at 27.1 percent, compared to tourism’s roughly 5 percent.

Bermuda is slowly coming out of more than six straight years of economic recession. Bermuda’s real gross domestic product increased for the fourth consecutive quarter in Q3 2015, a 4.4% increase over the same period in 2014 after adjusting for inflation of 1.8%. The primary driver was a \$53 million gain in the surplus on trade in goods and services, primarily from household consumption, which increased 3.8%. However, job losses and business closures continue to affect the overall economy.

Bermuda's investment climate presents a series of advantages for potential investors. These include:

- a stable, democratic government;
- low personal and corporate taxes;
- a pool of skilled professionals;
- proximity to the United States, and extensive air and communication networks;
- a stable currency, the Bermuda dollar (BMD), pegged at par to the USD.

As a British Overseas Territory, Bermuda’s legal system is grounded in UK common law. Its legal, regulatory and accounting systems adhere to high ethical and transparency standards. It generally effectively and impartially enforces its laws to combat corruption and money laundering. There is no government interference in the court system that could affect foreign investors.

Bermuda law recognizes and enforces secured interests in real property. The GOB’s policies facilitate the free flow of financial resources in the product and factor markets, and the U.S. Securities and Exchange Commission recognizes the Bermuda Stock Exchange (BSX) as a Designated Offshore Securities Market. There is a general awareness of responsible business conduct among both producers and consumers.

Table 1

Measure	Year	Index or Rank	Website Address
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TI Corruption Perceptions index	2014	n/a	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	n/a	doingbusiness.org/rankings
Global Innovation Index	2015	n/a	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country (\$M USD, stock positions)	2014	273,792	BEA
World Bank GNI per capita	2013	106,140	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Bermuda's investment climate welcomes foreign direct investment (FDI).

The Bermuda Business Development Agency (BDA) is an independent, public-private partnership funded by both the Bermuda government and the private sector. The agency is governed by a Board of Directors comprised of senior industry professionals representing the diversity of Bermuda's financial services sector. The BDA carries out pro-active, targeted marketing and business development strategies to stimulate growth in the Bermuda economy and create and maintain jobs. (<http://bda.bm/overview/>)

The BDA acts as a partner for existing Bermuda-based companies and also assists entities that are considering establishing operations in Bermuda. It connects prospective companies with industry partners and relevant representatives in the Bermuda Monetary Authority (BMA) and the Bermuda Government's Business Development Unit, making formal introductions, trouble-shooting and following up with clients to simplify the process.

The BDA has segmented its business development efforts into four distinct pillars, or industry areas, of focus: Risk (insurance, reinsurance, captives, and insurance linked securities), Asset Management, Trust & Private Client, and International Commerce (technology, international markets, etc.). These are key sectors of the Bermuda marketplace, or areas for potential growth, and the BDA has separate business development managers, strategies and goals for each.

The BDA's Concierge Service provides a one-stop-shop for businesses considering relocating or starting up operations in Bermuda. The Concierge team is the primary point of contact to

connect clients with industry professionals, Government and regulatory officials, and service providers such as realtors, law firms, auditors and relocation experts. Their goal is to help get business off the ground quickly and make doing business in Bermuda beneficial and straightforward.

The GOB has not implemented its plans to privatize, mutualize (a form of privatization in which employees are shareholders), and/or outsource non-core government functions. In November 2014 the GOB signed an exclusive agreement with the semi-public Canadian Commercial Corporation to build a new USD 200 million airport terminal pursuant to a public-private partnership to be financed from future airport revenues.

Other Investment Policy Reviews

Bermuda is a World Trade Organization (WTO) member through the United Kingdom. Bermuda has not conducted an investment policy review through the OECD, WTO, or UNCTAD in the last five years.

Laws/Regulations on Foreign Direct Investment

The Minister of Economic Development has broad discretion to approve privatization applications under the Companies Act 1981. The Ministry of Finance treats foreign and local investors equally when privatization opportunities arise. There is no government interference in the court system that could affect foreign investors.

An informal March 2014 study conducted by the U.S. Consulate showed that nearly 60 percent of government contracts granted in 2013 went to U.S. firms, worth almost USD 18 million. The Department of Project Management and Procurement publishes public tenders on its website:

http://www.gov.bm/portal/server.pt?open=512&objID=945&&PageID=235506&mode=2&in_hi_userid=2&cached=true and in the Royal Gazette, a local newspaper that also serves to publish the Government's official notices. .

Another useful website is that of the Bermuda Monetary Authority (BMA) at www.bma.bm. The BMA regulates the financial services sector in Bermuda, providing rigorous vetting, supervision, and inspection of all financial institutions operating in or from within Bermuda. It also assists other authorities in Bermuda to detect and prevent financial crime and develops risk-based financial regulations that it applies to the supervision of Bermuda's banks, trust companies, investment businesses, and insurance companies. The Companies Act 1981 as amended is the principal statute governing the formation and operation of Bermuda companies and foreign investment.

Most international business (IB) companies are classified as exempt, a term that addresses ownership, not taxation. Bermuda's tax system applies equally to local and exempt companies. An exempt company may be 100 percent owned by non-Bermudians. For information about local companies, see below. Being exempt does not relieve exempt companies of the supervisory, regulatory, or fiscal rules governing local, non-exempt companies (more about non-exempt companies below).

An exempt company may not do business within the local economy, except to the extent that it is so authorized by its constitutional documents and has been granted a license by the

Minister of Finance, who decides if the granting of such a license is in the best interest of Bermuda. Certain activities are expressly excluded from the requirement for a license, including doing business with other exempted undertakings; dealing in securities of exempted undertakings, local companies or partnerships; carrying on business as manager or agent for, or consultant or advisor to, any exempted company or permit company which is affiliated (whether or not incorporated in Bermuda) with the exempted company or an exempted partnership in which the exempted company is a partner or, in the case of mutual funds, selling or distributing their shares in Bermuda. An exempt company may buy its locally-needed supplies or services from local companies, such as accounting, banking, legal, management and office supply services.

An exempt company is exempt from the ownership regulations – otherwise known as the 60/40 Rule – governing local, non-exempt companies, which are permitted to do business within the local economy. To be classified as a local or non-exempt company, Bermudians must be beneficial owners of at least 60 percent of the shares in the company; exercise at least 60 percent of the total voting rights in the company; and make up at least 60 percent of the directors of the company.

In July 2012, in an effort to ease foreign ownership restrictions and boost the economy, Bermuda amended the Companies Act to allow companies listed on the BSX to apply for a license to seek foreign investment over and above the 40 percent maximum foreign ownership. Previously, foreign investors interested in doing business in Bermuda had to adhere to the 60/40 Rule. Many hotels and telecommunications companies fall into this category, as do Bermuda's four banks.

Compliance with Organization for Economic Cooperation and Development (OECD) guidelines that seek to eliminate separate regulatory regimes for local and international companies may have been a factor contributing to the decision to ease ownership restrictions. Some local businesses support relaxing the 60/40 rule to encourage FDI, increase liquidity in the local market, and boost the economy, while others oppose it out of concern that they might not be able to compete on a level playing field with majority foreign-owned businesses. There is no move afoot to change the current regime.

Overseas and resident investors may form partnerships under the Partnership Act 1902, which may be local or exempted and general or limited. A local partnership is composed of Bermudian partners only and is permitted to conduct business locally and abroad. If one or more of the partners is not Bermudian, the partnership is considered an exempted partnership and may only conduct business outside Bermuda from a principal place of business within Bermuda. An overseas partnership formed outside Bermuda may, through the BMA, apply to the Minister of Finance for a permit to operate in Bermuda or outside Bermuda from a place of business in Bermuda. These partnerships must appoint and maintain a resident representative on the island.

Bermuda strives to be innovative with new financial services and products. For example, in an effort to make Bermuda more competitive in the hedge fund management arena, the Investment Fund Amendment Act 2013 exempts certain hedge funds from authorization and supervision requirements, provides two new classes of exempt funds, and grandfathers currently-exempt funds. Exempt class A funds, which must be regulated by a recognized authority or have at least USD 1000 million in assets under management, are eligible for

expedited registration. To encourage improvements in telecommunication, the Customs Tariff Amendment (No 2) Act 2013 gives full customs duty relief on the importation of goods, apparatus, and machinery imported by holders of integrated communications operating licenses to be used to build or maintain telecommunications network infrastructure.

Bermuda generally prohibits the establishment of foreign franchises, with the exception of franchise hotels. The Companies Act gives the Ministry of Economic Development the authority to grant investors special permission to establish a franchise on the island.

As an overseas UK territory, Bermuda does not receive separate mention in many third-party data information sources, such as the World Bank or Transparency International. Because it is not a member of the Organization for Economic Cooperation and Development (OECD), International Monetary Fund (IMF) or World Bank, it does not participate in any of those organizations' routine reviews. Bermuda is part of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes (see <http://www.oecd.org/tax/transparency/>), so it is reviewed under this initiative. Neither the World Trade Organization nor the UN Committee on Trade and Development has reviewed Bermuda's investment policy.

Business Registration

The Investment Business Act 2003 is the statutory basis for regulating investment business in Bermuda. The act provides for a licensing regime for any person or entity (unless otherwise exempted or excluded) engaging in investment business, as defined by the act, either in or from Bermuda.

The Registrar of Companies (ROC) is a Bermuda government department falling under the Ministry of Economic Development. It has day to day responsibility of the administration of companies, company name reservation, company fees, insolvency and real estate. <https://www.roc.gov.bm/roc/rocweb.nsf/roc?OpenFrameSet>.

Foreign companies may not use the online registration system; the services of a local corporate service provider must be retained in order to set up a company in Bermuda. At a minimum, a company must typically register with the Registrar of Companies, the Tax Commissioner, the Social Insurance Department, and the Bermuda Monetary Authority if it is a regulated company. The Registrar of Companies usually takes 24 from the date of consent from the BMA for a typical incorporation. Time needs to be taken into account for the corporate service provider's vetting and the Know Your Customer process. There is no provision allowing simplified business creation without a notary.

Under the Bermuda Economic Development Corporation (BEDC) Act 1980, a "small business" is defined as a Bermudian-owned and owner-operated business enterprise having an annual gross payroll not exceeding USD 500,000 or having annual sales revenues of less than one million dollars. A "medium sized business" is a Bermudian-owned and owner-operated business enterprise with at least three of the following attributes: gross annual revenues \$1 million-\$5 million; annual payroll \$500,000-\$2.5 million; a minimum of 11 and a maximum of 50 employees; in operation for a minimum of 10 years; and net assets of less than \$2.5 million.

The BEDC grants loans or other forms of financial assistance to support establishing, carrying on or expanding small businesses, medium-sized businesses and entities within economic empowerment zones (EEZs). It also provides technical advice or assistance to persons who

are seeking or who are granted financial assistance; operates and manage markets; oversees and manages the development and implementation of economic empowerment zones; and maintains a register of small businesses, medium-sized business and EEZ business entities.

The BEDC's financial products include loan guarantees up to 50% of a loan up to a maximum of \$200,000; micro loans guarantees of 100% of a small loan up to \$7,500; bank preferential rates and terms for business formation and relocation into the Northeast Hamilton Economic Empowerment Zone (EEZ) payroll tax concessions in all three EEZs for nine tax periods; EEZ customs duty deferment up to five years for businesses and residences that undertake capital projects or purchases in the three EEZs; a 100% guaranteed letter of credit to allow duty payment on retail goods to be deferred for three months on each importation up to a credit limit of \$10,000; and graduates of the BEDC's mobilization loan program have preferential rates up to one year backed by a 100% guarantee from BEDC. While these benefits are only available to Bermudian-owned and owner-operated businesses, local businesses that meet the requirements of the 60/40 Rule (60% Bermudian-owned and 40% foreign ownership) may take advantage of BEDC's financial products. All can use its advisory services.

Industrial Promotion

The GOB seeks foreign direct investment (FDI) primarily for the development of tourism and local business.

Bermuda has no economic citizenship program. However, in part to recognize the contributions of key IB executives to past job creation and in part to encourage new job creators to come to Bermuda, in 2013 the GOB liberalized the Incentives for Job Makers Act 2011 to offer a form of permanent residency to those who create jobs for Bermudians and to give them residential property purchase rights unavailable to other non-residents. Likewise, in the spring of 2014 Parliament passed the Companies Amendment Act 2014 allowing individuals and local and exempt companies to buy commercial and residential properties under defined circumstances.

In March 2015, Parliament passed the Bermuda Immigration and Protection Amendment Act 2015 to encourage hotel development and boost the property market. The legislation lowered the price of properties available to non-Bermudians and non-PRC (Permanent Residents Certificate) holders, allowing them to purchase homes with an Annual Rental Value [ARV] of USD 153,000 or higher (from USD 177,000) and condominiums with a minimum ARV of USD 32,400 or higher and to own a total of two properties. Houses with a qualifying ARV start at around USD 3.5 million and condominiums at around USD 550,000. Buyers of fractional units and other tourist accommodation will be able to stay in those units as long as they like but will still be subject to immigration control in that they will be required to seek residential certificates from the Department of Immigration. The legislation also removes parish restrictions on acreage held by non-Bermudians but retains the island-wide cap of 2,500 acres.

Limits on Foreign Control and Right to Private Ownership and Establishment

Reference the section on Laws/Regulations of Foreign Direct Investment for information regarding the 60/40 Rule.

Privatization Program

The GOB has not implemented its plans, announced in February 2014, to privatize, mutualize (a form of privatization in which employees are shareholders), and/or outsource non-core government functions. However, it has increasingly turned to public-private partnerships, most recently signing an exclusive agreement with the semi-public Canadian Commercial Corporation in November 2014 to seek a contractor to build a new airport terminal building to be financed from future airport revenues. Other examples of public-private partnerships are the King Edward VII Memorial Hospital Redevelopment Project and the Bermuda Tourism Authority. In awarding contracts, the GOB does not always follow established bidding processes if the Accountant General agrees that not doing so is in the public interest.

Screening of FDI

The Bermuda Monetary Authority (BMA) is the entity that screens foreign direct investment. The screening process entails looking for proof of criminal activity and/ or money laundering. The Registry for Companies makes the final decision regarding the inscription of companies both domestic and international. If an application is denied, the client has the option to re-apply after addressing the reasons for the denial.

In order to incorporate, the BMA requires a copy of the most recent financial statements, a business plan, the articles of incorporation, copies of client agreements used in the course of business, any required licenses, and a check for the application fee.

In October 2009, the BMA launched an online filing system to facilitate the registration of companies. The online system improved the processing of applications, while maintaining the integrity of the review process. Under the new system incorporation can take as little as four weeks. The Bermuda Business Development Agency also offers a concierge service to facilitate and expedite the incorporation of international companies.

The BMA holds the authority to restrict or revoke a company's license and, under the Investment

Business Act, can censor, issue warnings or require dissolution. An investment provider may appeal the BMA's decision to a tribunal constituted on a case-by-case basis in accordance with the Investment Business Act.

Competition Law

See www.bma.bm

2. Conversion and Transfer Policies

Foreign Exchange

The USD currency is widely used and accepted in Bermuda. It is par to the Bermuda dollar. In Bermuda, both currencies are freely interchangeable and transferable without any restrictions.

The BMA issues Bermuda's national currency and manages exchange control transactions. It administers the Exchange Control Act 1972 that states that no capital or exchange controls apply to non-residents or to the various forms of offshore entities, which are free to import and export funds in all currencies.

The Exchange Control Regulations 1973 and the Companies Act 1981 regulate the issue, transfer, redemption, and repurchase of securities. For exchange control purposes, the BMA must give prior approval for issues to and transfers of securities in Bermuda companies involving non-residents, except where general permission has been granted pursuant to the Notice to the Public of June 2005.

The 2009 Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Amendment gave the BMA the authority to oversee all money transactions involving wire transfers. The act requires financial institutions to verify the accuracy and completeness of the information on the payer before authorizing the transfer of funds. The institution must also retain all the records pertaining to the transaction for a period of no less than five years. In 2013, amendments created an obligation to report suspicious money transactions which could possibly be linked to money laundering or to monies being used to fund terrorism. It established a civil proceeding before the Supreme Court for the purpose of recovering money obtained through unlawful conduct.

In 2009, Bermuda updated the 1898 Revenue Act to strengthen the requirements related to cross-border transporting of currency and negotiable instruments. The threshold was set at USD 10,000, after a financial transaction surpasses that amount; the financial institution is automatically required to report the transaction. Passengers arriving to Bermuda (regardless of point of embarkation) must complete mandatory declaration form. This mandatory disclosure system applies to all outgoing passengers traveling to the U.S., Canada, and the UK.

The 2010 Foreign Currency Purchase Tax Amendment Act is applied to the purchase of all non-local currencies, including the USD. In 2010, the foreign currency purchase tax doubled from 0.5 percent to 1 percent per transaction.

Bermuda is a member of the Caribbean Financial Action Task Force (CFATF), an organization of states and territories of the Caribbean basin which have agreed to implement common counter-measures against money laundering and it is listed under the 2014 International Narcotics Control Strategy Report (INCSR) as being a monitored country.

There are no restrictions or limitations placed on foreign investors in converting, transferring, or repatriating funds associated with an investment.

Remittance Policies

Reference the previous section.

3. Expropriation and Compensation

The Housing Loan Insurance (Mortgage) Regulations 1984 and the Municipalities Act 1923 regulate anything dealing with expropriations. In Bermuda there is no history of expropriation

without proper compensation. There are no expropriatory acts against foreign investors in Bermuda.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Bermuda's legal system is based on English statutory and common law and principles of equity. The system is generally effective at enforcing property, commercial and contractual rights.

There is no government interference in the court system. Three courts preside in Bermuda; the Magistrates Courts, the Supreme Court, and the Court of Appeal. The Commercial Court, a division of the Supreme Court, in effect since January 2006, was established to provide a forum in which commercial litigation is tried expeditiously by an experienced commercial judge in accordance with the best modern practice. The court of last resort is London's Privy Council.

Foreign money judgments can be enforced under Bermudian statutory law. Under the 1958 Judgments Reciprocal Enforcement Act (JRE), local courts must recognize and enforce foreign judgments. The JRE follows the same procedure as the UK Foreign Judgments (Reciprocal Enforcement) Act of 1933. Bermuda also has arbitration legislation.

Bankruptcy

The Bankruptcy Act 1989, the Companies Act 1981, and the Companies (Winding Up) Rules 1982 govern bankruptcy and the winding-up of companies. The Supreme Court (the first instance court of general jurisdiction) administers the bankruptcy process. A foreign creditor may apply for the bankruptcy of an individual or for the winding-up of a company provided the creditor follows the procedures set out in the aforementioned statutes.

Investment Disputes

A Bermuda-owned and registered company is pursuing arbitration and related legal proceedings after the tender awarding it development rights for the Hamilton waterfront was revoked. The Bermuda Ombudsman had opined that the tender process awarding those rights was deeply flawed and the GOB subsequently enacted legislation nullifying the development agreement for the project. The case is now in arbitration and related legal proceedings are ongoing regarding compensation payable to the company. No U.S. company or entity is involved in this litigation.

In another case involving the Corporation of Hamilton, a 2014 credit default by a Bermudian company planning a hotel project on the island led its U.S. creditor to seek damages. An initial judgement in the creditor's favor was issued in 2015, and this legal process is also ongoing.

International Arbitration

The growth in commercial arbitration is directly linked to the presence of international companies, which operate primarily in the insurance and reinsurance industry. Arbitration within Bermuda has become increasingly popular and it is often named as the seat for

arbitration The GOB has considered promoting Bermuda as a global center for international arbitration.

Bermuda has its own arbitration legislation. The Bermuda International Conciliation and Arbitration Act of 1993 adopted the UN Commission on International Trade Law (UNCITRAL model law) as their rules for governing arbitration procedures. Under the umbrella of the United Kingdom, the ratification of the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York convention) was extended to Bermuda who became a member state in 1980.

Under Bermuda law, arbitrators and foreign legal counsel traveling to Bermuda for the purposes of participating in arbitration do not need to be locally licensed. The Department of Immigration does however require advance notice of their presence in the jurisdiction.

The judicial system handles investment disputes unless the parties have agreed to submit their disputes to arbitration.

ICSID Convention and New York Convention

Through the United Kingdom, Bermuda has ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention). Under the convention, foreign arbitral awards are enforceable within Bermuda's domestic courts. Likewise under the United Kingdom, Bermuda is also a member state to the International Centre for Settlement of Investment Disputes (ICSID Convention).

Duration of Dispute Resolution – Local Courts

Information unavailable

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Not applicable.

Investment Incentives

Bermuda is a low tax jurisdiction. It currently does not impose income, profits, withholding, capital gains, transfer, estate duty/inheritance, or sales tax. The GOB imposes customs duty on an ad valorem basis, generally on the transaction value of imported goods and depending on whether it is for commercial or personal use. The most common customs duty rate is 22.25 percent, although luxury items such as boats and cars can carry a much higher rate.

For a breakdown of payroll tax rates, see

http://www.gov.bm/portal/erver.pt/portal/server.pt?open=512&objID=275&&PageID=231418&mode=2&in_hi_userid=2&cached=true.

Bermuda has no discriminatory or preferential import or export policies affecting foreign investors. The GOB does not require investors to export a set percentage of output or to purchase goods from local suppliers, even though there are a number of preferential duty

reliefs for certain local commercial activities (e.g., for the importation of energy efficient goods and renewable energy resources, hotel and restaurant renovations, etc.).

For information about the 60/40 Rule, please reference the section 1 on Laws/Regulations of Foreign Direct Investment. For information about labor requirements and work permits, reference section 15 on Labor.

Research and Development

The Bermuda Institute of Ocean Sciences (BIOS), a Registered Bermuda Charity and a U.S. 501(c) (3) not-for-profit research and educational organization, is a world-class ocean science research and education facility. BIOS performs research in many fields, including oceanography, marine biology, genetics and molecular biology, chemistry, air/environmental quality, optics, biogeochemistry, and climate change.

The Sargasso Sea Alliance, a partnership led by the GOB in collaboration with scientists (including BIOS), international marine conservation groups, and private donors, works to protect the unique and vulnerable ocean ecosystem of the Sargasso Sea, which surrounds Bermuda. In March 2014, representatives from the governments of five countries and territories from around the Sargasso Sea, including the U.S., signed the Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea, a non-binding political statement that indicates signatories' interest in voluntarily collaborating on efforts to conserve the Sargasso Sea.

Performance Requirements

Although the GOB and many Bermudians recognize the importance of third country nationals (TCNs) to the island, the GOB generally imposes a 'Bermudianization policy that entails giving preferential job employment to locals.

In recognition of the key role IB and foreign investment play in the economy, particularly in terms of job creation for Bermudians, the GOB enacted a new work permit policy, effective March 1, 2015. The global entrepreneur work permit gives TCNs who plan to incorporate an exempt company in Bermuda permission to live and work on the island for a maximum of 12 months while in the planning stages. New business work permits allow exempt companies that are new to Bermuda to expedite up to ten work permits within the first six months of their moving to Bermuda. The new policy also requires employers to advertise all positions for at least eight consecutive days and to confer directly with the Department of Workforce Development about whether there are qualified Bermudians to fill posts in certain job categories. Spouses of work permit holders, but not their children, may seek employment.

Earlier, in January 2013, the GOB eliminated the controversial term limits policy, under which TCNs were allowed to work in Bermuda for no more than six years, or up to ten years if their employers could demonstrate they were "key employees." To reward and retain companies already in Bermuda, and to encourage new companies to establish themselves on the island, in December 2013 the GOB amended the Incentives for Job Makers Act (IJMA) 2011 to change from recruiting and retaining TCNs whose residence in Bermuda was critical to a company's remaining in Bermuda to those who were critical to jobs in general remaining on the island.

Data Storage

While the GOB does not require foreign investors to follow the “forced localization” of goods or technology, it encourages IB to support the economy by purchasing from local companies, such as those providing accounting, banking, legal, management, and office supply services. Since the world economic downturn of 2008, however, a number of IBs have consolidated, restructured and moved, in some cases shifting IT, HR, and other administrative services to lower-cost jurisdictions, including Canada and the U.S.

The Bermuda Police Service works with law enforcement worldwide and uses Mutual Legal Assistance Treaties to obtain information from foreign IT providers. The Regulatory Authority enforces rules on maintaining certain amount of data storage within the Bermuda economy.

6. Protection of Property Rights

Real Property

Bermuda law recognizes and enforces secured interests in movable and real property. The Registry General, the Land Tax Office and the Land Valuations Office regulate the acquisition and disposition of property, including land, buildings, and mortgages. The Land Title Registration Act 2011 moved Bermuda from a deeds-based property transaction to a parcel-based land registration system. However, the new registration system has not yet been implemented. Until implementation - expected in 2016 - land owners must retain a Bermuda lawyer to research the history of the property and ensure there are no third party claims. A deed of conveyance or a mortgage is recorded each time real estate changes hands.

Intellectual Property Rights

As an Overseas Territory of the UK, Bermuda may not enter into international treaties independently unless the UK expressly authorizes it to do so and judges Bermuda’s implementing legislation to be compliant. The UK extended the right to Bermuda to join the Berne Convention for the Protection of Literary and Artistic Works, which requires its signatories to recognize the copyright of works of authors from other signatory countries (known as members of the Berne Union) in the same way it recognizes the copyright of its own nationals.

In 2014, the GOB reviewed its intellectual property legislation and in 2015 began dialog with the UK Intellectual Property Office to extend to Bermuda, as a UK Overseas Territory, the right to join the WTO's Trade Related Intellectual Property Rights (TRIPS) Agreement, the Madrid Protocol, the Paris Convention, the Patent Cooperation Treaty, and the Hague Agreement. Bermuda has yet to sign the World Intellectual Property Organization (WIPO) internet treaties, the WIPO Copyright Treaty (WCT), or the WIPO Performances and Phonograms Treaty.

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/>.

Counterfeit goods are not a problem in Bermuda. About 70 percent of imported goods derive from the United States.

Resources for Rights Holders

Astrid Black

Public Diplomacy/Political/Economic Assistant, U.S. Consulate, Hamilton, Bermuda

441-295-1342

blackac@state.gov

For a list of lawyers in Bermuda, visit

<http://hamilton.usconsulate.gov/uploads/images/IArYD95iFDV3mD7eqH9sww/lawyerslist2010B.pdf> .

7. Transparency of the Regulatory System

Bermuda's legal, regulatory and accounting systems adhere to high ethical and transparency standards. As noted previously, the legal and regulatory systems are grounded in UK law. Accounting systems and auditing standards typically follow Canadian Generally Accepted Accounting Principles (GAAP). A Bermudian company may choose to follow the GAAP of any other jurisdiction, subject to full disclosure of its accounts.

Bermuda is a member of regulatory standard-setting bodies for banking (via the Basel Committee on Bank Supervision), insurance (via the International Association of Insurance Supervisors or IAIS), and investment business (via the Financial Services Authority or FSA). In December 2013, Bermuda signed the Foreign Account Transaction Compliance Act (FATCA) Intergovernmental Model 2 Agreement with the U.S. to promote transparency on tax matters, having concluded a FATCA-type agreement with the UK the previous month. Bermuda financial institutions now automatically transmit FATCA information to the U.S. and UK.

The BMA is Bermuda's sole regulatory body for financial services, responsible for the licensing, supervision, and regulation of financial institutions conducting deposit-taking, insurance, investment, and trust business on the island. The GOB continues to strengthen its anti-money laundering and anti-terrorism financing (AML/ATF) framework to ensure a high level of compliance with international standards. Amendments to the Proceeds of Crime Act in 2013 created an obligation to report suspicions of money laundering or terrorist financing and to allow civil proceedings before the Supreme Court for the recovery of property obtained through unlawful conduct.

The BMA's Guidance Notes for AML/ATF Regulated Financial Institutions on Anti-money Laundering and Anti-terrorist Financing outline and interpret the legal and regulatory framework, propose good industry practices, and assist institutions to design and implement systems and controls to limit AML/ATF risks to institutions. In this respect, Bermuda laws and regulations do not distinguish between businesses operating in the local economy and exempt companies operating internationally from within Bermuda. Neither unlicensed nor unregistered entities are permitted to operate in the financial services sector.

Bermuda's Financial Intelligence Agency is a member of the Egmont Group of Financial Intelligence Units. It shares information with other agencies, within and outside Bermuda. The BMA Amendment (No. 3) Act 2004 clarified the power of the BMA to share information with other overseas authorities. Other laws that authorize the sharing of information with overseas regulators include the Banks and Deposit Companies Act 1999, the Trusts (Regulation of Trust Business) Act 2001, and the Investment Act 2003.

The Investment Business Amendment Act 2012, the Trust (Regulation of Trust Business) Amendment Act 2012, and the Banks and Deposit Companies Amendment Act 2012 regulate investment businesses, trusts, and banks in the areas of civil penalties, public censure, prohibitions against providing certain services, and publication of decisions. The Investment Business Act 2003 granted the BMA stronger intervention powers, including the ability to cooperate with foreign bodies, while the Investment Business Investment Act 2012 brought the Bermuda Stock Exchange (BSX) under the regulation of the BMA. Other provisions provide for criminal penalties, e.g., the Banks and Deposit Companies Amendment Act.

The BMA regulates collective investment schemes (CIS). The 1997 Proceeds of Crime Act (POCA) and the 2006 Investment Funds Act (IFA) regulate fund administrators. CIS are also subject to IFA, which clarifies and codifies the current regulation of funds in order to strengthen Bermuda's position in the international funds market.

For Bermuda laws in general, see www.bermudalaws.bm. The GOB posts new laws and regulations in the Royal Gazette newspaper (the official public record). Draft bills are made available at <http://www.parliament.bm>. The GOB often consults with organizations prior to introducing proposed legislation.

8. Efficient Capital Markets and Portfolio Investment

As noted above, Bermuda's currency, the Bermuda dollar (BMD), is pegged 1:1 to the USD. Bermuda does not have a central bank, but the BMA issues and redeems notes and coins, supervises, regulates, and inspects financial institutions which operate in or from Bermuda, and generally promotes the financial stability and soundness of financial institutions. The BMA does not, however, determine interest rates, which are set by the market, regulated by the Ministry of Finance, and usually follow the Federal Reserve System rates.

Bermuda does not have developed capital markets and does not control monetary policy. Commercial credit lines are normally arranged through U.S. or other overseas institutions. Credit is allocated on market terms, and foreign investors may get credit on the local and international markets. The private sector has access to various credit instruments via local banks. Many companies, particularly the larger ones, maintain external banking relationships.

Money and Banking System, Hostile Takeovers

Bermuda has four banks, all of which are exempt from the 60/40 Rule.

The Banks and Deposit Companies Act 1999 implemented the Basel Committee's Core Principles for Effective Banking Supervision. Bermuda banks are compliant with the Basel II Accord and have either implemented or are moving toward full implementation of Basel III.

Liquidity and solvency are important concerns for Bermuda's banks as there is no monetary policy, no lender of last resort, and no implied guaranty. In July 2011, the GOB passed the Deposit Insurance Act, which lays out proposals for implementing a Deposit Insurance Scheme (DIS) for the Bermuda market; it has yet to be implemented. The DIS would provide insurance coverage to small depositors in banks and credit unions. In February 2016, the House of Assembly passed the Banking (Special Resolutions Regime) Act 2016 to allow the government to temporarily take over a failing bank.

According to the BMA's September 2015 Regulatory Update, the overall capital position of the banks remained unchanged with the Risk Asset Ratio (RAR) reported at 20.8% for both Q2 and Q3 2015, keeping the banks above the regulatory capital requirements under Basel II and Basel III. Under Basel II reporting, the RAR was stable at 20.8% during the quarter, while the Basel III RAR stood at 17.3%. Both net capital and Risk-Weighted Assets (RWAs) fell at the same rate of 1.5%, whereas the regulatory capital measure of Tier 1 capital to RWAs was stable at 19.2% (Q2 2015: 19.3%).

Total assets within the banking sector declined by 4.9% (or \$1.2 billion) in Q3 2015 but remained higher than levels reported in the same period in the previous year (up 5.9% or \$1.3 billion). The fall in total assets was led by an expected 16.5% (or \$972 million) drop in interbank deposits. There was a modest decline of 1.7% during the quarter in loans and advances which can be attributed to low demand for mortgages. Investments held by banks continued to fall, declining by 1.0% (or \$91.6 million).

The banking sector continued to experience low demand in the real-estate market, with loans to this sector remaining at its lowest level in Q3 2015. Loans to "Other Financial Institutions" increased from 5.9% to 7.9%. The banking sector's leverage position experienced a marginal improvement during the quarter as the regulatory leverage ratio (equity to total assets) increased from 8.4% to 8.8%. Under Basel III, the leverage ratio was unchanged at 7.7% which is above the newly implemented 5.0% minimum leverage ratio.

Banking sector profitability continued to improve during Q3 2015, aided by a combination of higher earnings and a reduction of non-interest expenses. Quarterly earnings from other banking sources jumped 16.4% and non-banking sources were up 7.7%, while operating and non-operating expenses declined by 2.6%. The banking sector's cost efficiency improved during the quarter as non-interest expenses as a percentage of total income declined from 76.0% to 70.0%. Lower operating and non-operating expenses proportional to the change in total income (up 5.4%) contributed to the improvement in the efficiency ratio. The profitability indicators reflect a quarterly improvement in the banking sector with annualized Return on Equity (ROE) and Return on Assets (ROA) increasing from 8.4% to 11.2% and from 0.8% to 1.0% respectively.

There was a modest declining trend in the ratio of non-performing loans (NPLs) to total loans Q4 2014 - Q3 2015, with Q3 reporting at 9.4%. Loan loss provisions set aside by banks to cover expected credit losses rose by 3.0% to \$191.9 million during the quarter. Consequently, provisions as a percentage of NPLs rose by one percentage point to 20.7% from 19.7%.

Liquidity conditions within the banking sector remain relatively stable while loan demand recorded a modest decline over Q3 2015. The liquidity funding structure showed that the ratio of loans to deposits rose to 41.2% (Q2-2015: 39.3%). Overall lending fell at a slower pace (down 1.7%) compared to the decrease in customer deposits (down 6.3%), resulting in a narrowing of the sector's funding gap. The quarterly decrease in deposit liabilities was largely driven by demand deposits (down 8.6%) followed by time deposits (down 4.8%) and savings deposits (down 2.6%). At the end of Q3-2015, all of the banks met the phased-in 60% Liquidity Coverage Ratio (LCR).

The overall money supply fell during Q3 2015 by 2.4% (or \$83.0 million) due primarily to the decline in BD\$-denominated deposit liabilities. Notes and coins in circulation grew in the third quarter, rising by 1.8% (or \$2.2 million) and were up 10.7% (or \$12 million) year-on-year.

In 1996, U.S. Securities and Exchange Commission recognized the Bermuda Stock Exchange (BSX) as a Designated Offshore Securities Market. In 1999, the BSX became a full member of the International Federation of Stock Exchanges. In 2005, the UK Financial Services Authority granted the BSX Designated Investment Exchange status. The BMA provides oversight of the BSX and its trading activity. The BSX employs the Bermuda Securities Depository (BSD) - an electronic clearing, settlement and registration system - under BMA oversight. The BSD was designed to facilitate more efficient trade settlement for BSX-listed securities by allowing book entry settlement rather than paper-based settlement. Currently, over 600 companies are listed on the BSX.

Protection from hostile takeovers falls under the Insurance Amendment Act 2013 and the Companies Act 1981. The Insurance Amendment Act is designed to improve insurance group supervision by requiring that certain material changes be reported to the BMA, such as amalgamation with another firm or acquisition of a controlling interest in a business. The Companies Act requires notification of shareholders of amalgamation agreements.

9. Competition from State-Owned Enterprises

Bermuda has some traditional state-owned enterprises (SOEs) that compete with the private sector, including public transit, waste management, and the postal service. Governance of SOEs is led by a politically-appointed Cabinet Minister. SOEs must provide financial information to the Minister, who submits the information annually to the Auditor General. Most are prohibited from having a board of directors but may have an advisory board.

Bermuda also has quasi-autonomous, non-governmental organizations (QUANGOs)/Public Authorities, established under their respective legislative incorporation acts. The GOB controls several other organizations either through the possession of shares or voting rights or by some other means. These organizations include the National Sports Center, Port Royal Golf Course, Ocean View Golf Course, Bermuda College, Bermuda Housing Trust, Bermuda Housing Corporation, Bermuda Land Development Corporation, West End Development Corporation, Bermuda Hospitals Board, Bermuda Health Council, the Regulatory Authority (telecommunications), Bermuda Tourism Authority, Bermuda Economic Development Corporation, Pension Commission, and parish councils.

SOEs purchase or supply goods or services locally. However, it should be noted that the vast majority of goods are imported, because Bermuda produces virtually nothing of its own. Bermuda's state-owned businesses are heavily subsidized, but nothing in law prohibits private-sector competition. Bermuda has no state-owned banks, development banks, or sovereign wealth funds or other state-owned investment vehicle.

Bermuda is not a party to the Government Procurement Agreement (GPA) within the framework of the World Trade Organization.

OECD Guidelines on Corporate Governance of SOEs

Information unavailable.

Sovereign Wealth Funds

Not applicable/information unavailable.

10. Responsible Business Conduct

The concept of responsible business conduct is strong in Bermuda, particularly among international companies. The Bermuda Monetary Authority (BMA) has issued the Insurance Code of Conduct, the Banking Code of Conduct, the Code of Conduct for Fund Administrators, the Advertising Code of Conduct, the Investment Business Code of Conduct, and the General Business Conduct and Practice Code of Conduct. There have been no high-profile, controversial instances of corporate impact on human rights. The Bermuda government effectively and fairly enforces domestic laws.

The BMA is responsible for the supervision, regulation and inspection of Bermuda's insurance companies and for the licensing of all insurance companies, brokers, agents and managers. Applications are subject to internal and independent review by a committee of senior staff and are closely vetted for the fitness, propriety and underwriting experience of the management, the plausibility of the proposed business plan and the level of capitalization relative to the proposed risk profile, amongst other factors. The BMA maintains a register giving details of each licensed insurer that is available for public inspection at the Registrar of Companies.

The BMA conducts banking supervision and regulation in accordance with the standards established by the Basel Committee on Banking Supervision, in particular with the revised Concordat and with the precepts for the supervision of cross-border banking. It liaises closely with other regulators, both domestically and internationally, in order to ensure effective consolidated supervision, both in relation to entities for which the BMA acts as consolidated group wide supervisor and where licensed institutions may form part of international banking groups. The BMA's supervision involves regular on-site visits and off-site surveillance, which includes the review of prudential returns on both a solo and consolidated basis and regular prudential meetings with senior management of licensed financial institutions. The BMA has also introduced a stress testing methodology and monitors on a regular basis a set of Financial Stability Indicators based on the IMF's core and encouraged set.

The Corporate Service Provider Business Act 2012 and the Corporate Service Provider Business Amendment Act 2014 prohibit a person from carrying on corporate service provider business in or from within Bermuda unless that person is for the time being a licensed undertaking under the Act. The BMA has regulatory and information gathering powers over Corporate Service Providers.

The BMA supervises and regulates all investment business operating in or from Bermuda. As a guideline for the development and ongoing developments of the BMA's investment business policies, the Authority refers to the core principles issued by the International Organization of Securities Commissions (IOSCO). These principles issued by the IOSCO are deemed to be universal standards of conduct with the investment business industry. To ensure the highest standards are upheld, the BMA liaises closely with other regulators, both domestically and internationally, to provide the most effective consolidated supervision. Supervision involves regular prudential and strategy discussions with senior management, together with off-site

analysis and review of prudential data and certain on-site work, conducted both in Bermuda and in significant group operations abroad.

The BMA also supervises and regulates trusts. Trusts must provide audited financial statements and a Certificate of Compliance to the BMA within four months of their year-end. These are discussed with the undertaking, along with changes to strategy, staffing etc. as part of the Authority's off-site supervision. Routine on-site review visits are undertaken by BMA staff (including anti-money laundering compliance testing) and the Authority also has the power to commission reports from reporting accountants on key aspects of systems and controls.

The Bermuda and Canada Institutes of Chartered Accountants work together to develop and enforce high standards to protect the public interest and maintain the good reputation and integrity of the CA profession. In addition, throughout their professional careers, CAs are subject to ongoing regulation in order to safeguard the public interest. They are subject to enforcement of exacting Rules of Professional Conduct; continuing professional development requirements; and comprehensive public oversight and discipline mechanisms. In addition, CAs practicing public accounting are subject to mandatory practice inspection and professional liability insurance programs. The Institute has a comprehensive complaints investigation and discipline process.

The Bermuda Bar Association is responsible for both the regulation and discipline of members of the legal profession in Bermuda. All members of the Bermuda Bar are bound by the Barristers' Code of Conduct, which requires that members carry out their duties to their clients, the court, members of the public and their colleagues with integrity and in accordance with the code of professional conduct. Further, they are required to conduct themselves within or outside the professional sphere in a manner which will not be likely to impair a client's trust in them as a legal advisor.

The Trade Union Act 1965 requires trade unions to exercise good governance and transparency when dealing with matters of finance. Union officers have a duty to render accounts to member trustees. Trade unions may impose penalties on any officer, member or person employed by the trade union for withholding money or falsifying an account.

The GOB does factor Responsible Business Conduct (RBC) policies or practices into its procurement, through the Public Treasury (Administration and Payments) Act 1969 and the Good Governance Acts of 2011 and 2012. The legislation accords with the principles of the UN Convention against Corruption (UNCAC), and the GOB has committed to identify and address gaps in the Bermuda legislation regarding the UNCAC.

In 2016, the GOB expects to implement a Code of Practice for Project Management and Procurement that sets out the rules for the procurement of goods, services and works, including procedures for tendering, evaluating proposals and selecting contractors; financial thresholds; requirements for awarding, monitoring, extending and varying contracts; and procedures for debriefing bidders, handling complaints, resolving disputes, retaining records and inspecting records.

The GOB is also working with the Bermuda Economic Development Corporation to develop a government contracting program in support of small and medium-sized businesses. In addition, an electronic purchasing and tendering system is being implemented to facilitate

public access to tenders, increase competition and improve transparency. The GOB's procurement processes provide for the application of social, environmental and economic criteria in the tender evaluation and selection process. Principles of environmental and sustainable development are being embedded in tender documentation and contracts.

11. Political Violence

Several peaceful demonstrations occurred in 2015. In February 2016, the Bermuda Police Service recommended that the GOB halt a public hearing on giving long-term resident third country nationals residency rights, as some in the audience became disorderly. In March 2016, the People's Campaign for Equality, Jobs and Justice - a coalition of labor unions and religious organizations formed in May 2014 to represent those suffering from the recession - called for an island-wide withdrawal of labor on March 11 and 14 as a show of solidarity against the proposed Bermuda Immigration and Protection Act 2016. The proposed law would grant status and permanent residency to current non-Bermudian residents who have lived in Bermuda for at least 20 or 15 years, respectively.

12. Corruption

Bermuda has a series of laws, regulations, and penalties to combat corruption and, generally speaking, effectively enforces them. The Good Governance Act 2012 discourages financial abuse by ministers and members of the civil service and protects whistleblowers. Under the Act, politicians who attempt to influence the award of government contracts could face a USD 10,000 fine and a year-long jail sentence. The penalties also apply to contractors and public officers found guilty of collusion. The Act also improved the transparency and accountability of government contracts, strengthened requirements for internal audits, and established an Office of Project Management and Procurement to strengthen oversight/control of government projects.

The Bermuda Criminal Code and the Proceeds of Crime Act provide for punishing corrupt practices in the area of investments, particularly for misleading statements and practices, market manipulation, and insider trading.

To distance itself from perceived impropriety often associated with offshore banking centers, Bermuda continues to update its regulatory framework to meet international standards, including those of the IMF, the Financial Action Task Force (FATF) and the OECD.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Bermuda is not a signatory to the UN Anticorruption Convention or the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

Contact agency responsible for combating corruption:

Bermuda Police Service
10 Headquarters Hill, Prospect
(441) 295-0011
dcop@bps.bm

Contact information for watchdog organization:

Bermuda Ombudsman
 Suite 102
 14 Dundonald Street West
 Hamilton HM 09
 Tel: (441) 296-6541
 E-mail: complaint@ombudsman.bm; info@ombudsman.bm

13. Bilateral Investment Agreements

There is no bilateral investment treaty or free trade agreement between the U.S. and Bermuda.

Bermuda is on the category A list of signatories to the International Organization of Securities Commissions Multi-lateral Memorandum of Understanding (IOSCO MMOU), which provides for mutual co-operation and the exchange of information among securities regulators. In June 2009, the International Association of Insurance Supervisors (IAIS) approved the BMA as a signatory to the Multi-lateral Memorandum of Understanding. The MMOU establishes a formal basis for cooperation and information exchange between signatory regulators who supervise insurers with international or cross border operations.

Bilateral Taxation Treaties

There are two bilateral taxation-related treaties between the U.S. and Bermuda: the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland (on Behalf of the Government of Bermuda) and the Government of the United States of America Relating to the Taxation of Insurance Enterprises and Mutual Assistance in Tax Matters (Convention) (1986), and the Tax Information Exchange Agreement (TIEA) (1988). Under the latter, the U.S. agreed to waive income and excise taxes on insurance premium income derived from the U.S. for eligible Bermudian insurance companies, i.e., companies whose predominant business activity is the issuing of insurance, reinsurance, or annuity contracts and the investing of insurance reserves and other capital incident to the carrying on of the insurance business and that does not operate as a permanent establishment in the U.S.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Bermuda has no free port or duty-free import zones.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Economic Data					

Host Country Gross Domestic Product (GDP) (\$M USD)	2014	\$4,591	n/a	n/a	
Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	n/a	n/a	2014	\$273,792	BEA
Host country's FDI in the United States (\$M USD, stock positions)	n/a	n/a	2014	-\$4,757	BEA
Total inbound stock of FDI as % host GDP	n/a	n/a	2014	59.5%	Based on real GDP

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data						
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)						
Inward Direct Investment				Outward Direct Investment		
Total Inward	n/a	100%	Total Outward	n/a	100%	
n/a	n/a	n/a	n/a	n/a	n/a	n/a

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	515,785	100%	All Countries	92,715	100%	All Countries	423,070	100%
U.S.	267,897	52%	U.S.	27,406	30%	U.S.	240,492	57%
Canada	27,516	5%	Ireland	15,598	17%	Canada	26,574	6%
UK	25,319	5%	Luxembourg	14,006	15%	UK	22,006	5%
Cayman	21,064	4%	Cayman	8,997	10%	Cayman	12,067	3%
Ireland	20,136	4%	Mauritius	3,564	4%	France	11,918	3%

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chiefs 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:

English common law

International organization participation:

Caricom (associate), ICC (NGOs), Interpol (subbureau), IOC, ITUC (NGOs), UPU, WCO






















Section 6 - Tax





Exchange control

Exempted companies which can be entirely beneficially owned by non-Bermudians and who trade or operate from Bermuda, but not in Bermuda, are entirely exempt from any exchange controls. Exchange control regulations which have applied for some time to Bermudian local and/or Bermudian owned companies, are now being dismantled.

Treaty and non-treaty withholding tax rates

Bermuda has exchange of information relationships with 79 jurisdictions through 4 DTCs, 38 TIEAs and 1 multilateral mechanism, Convention on Mutual Administrative Assistance in Tax Matters.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Argentina	TIEA	22 Aug 2011	14 Oct 2011	Yes	Yes	
Aruba	TIEA	1 Sep 2009	1 Dec 2011	Yes	Yes	
Australia	TIEA	10 Nov 2005	20 Sep 2007	Yes	Yes	
Bahrain	DTC	22 Apr 2010	29 Jan 2012	Yes	Yes	
Belgium	TIEA	11 Apr 2013	not yet in force	Unreviewed	Yes	
Brazil	TIEA	29 Oct 2012	not yet in force	Yes	Yes	
Canada	TIEA	14 Jun 2010	1 Jul 2011	Yes	Yes	
China	TIEA	3 Dec 2010	3 Nov 2011	Yes	Yes	
Curaçao	TIEA	28 Sep 2009	not yet in force	Yes	Yes	
Czech Republic	TIEA	28 Jul 2011	not yet in force	Yes	Yes	
Denmark	TIEA	16 Apr 2009	25 Dec 2009	Yes	Yes	
Faroe Islands	TIEA	16 Apr 2009	9 Sep 2010	Unreviewed	Yes	
Finland	TIEA	16 Apr 2009	31 Dec 2009	Yes	Yes	
France	TIEA	8 Oct 2009	28 Oct 2010	Yes	Yes	
Germany	TIEA	3 Sep 2009	6 Jun 2012	Yes	Yes	
Greenland	TIEA	16 Apr 2009	22 Mar 2012	Unreviewed	Yes	
Guernsey	TIEA	23 Oct 2013	not yet in force	Unreviewed	Yes	
Iceland	TIEA	16 Apr 2009	2 Apr 2011	Yes	Yes	
India	TIEA	7 Oct 2010	3 Nov 2010	Yes	Yes	
Indonesia	TIEA	22 Jun 2011	not yet in force	Yes	Yes	
Ireland	TIEA	28 Jul 2009	11 May 2010	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Italy	TIEA	23 Apr 2012	not yet in force	Yes	Yes	
Japan	TIEA	1 Feb 2010	1 Aug 2010	Yes	Yes	
Korea, Republic of	TIEA	24 Jan 2012	not yet in force	Yes	Yes	
Malaysia	TIEA	23 Apr 2012	4 Jun 1934	Yes	Yes	
Malta	TIEA	24 Nov 2011	5 Nov 2012	Yes	Yes	
Mexico	TIEA	15 Sep 2009	9 Sep 2010	Yes	Yes	
Netherlands	TIEA	8 Jun 2009	1 Feb 2010	Yes	Yes	
New Zealand	TIEA	16 Apr 2009	23 Dec 2009	Yes	Yes	
Norway	TIEA	16 Apr 2009	22 Jan 2010	Yes	Yes	
Poland	TIEA	25 Nov 2013	not yet in force	Unreviewed	Yes	
Portugal	TIEA	10 May 2010	5 Apr 2011	Yes	Yes	
Qatar	DTC	10 May 2012	not yet in force	Yes	Yes	
Seychelles	DTC	21 Jun 2012	19 Jul 2013	Yes	Yes	
Singapore	TIEA	29 Oct 2012	6 Dec 2012	Yes	Yes	
Sint Maarten	TIEA	28 Sep 2009	not yet in force	Yes	Yes	
South Africa	TIEA	6 Sep 2011	8 Feb 2012	Yes	Yes	
Sweden	TIEA	16 Apr 2009	25 Dec 2009	Yes	Yes	
Turkey	TIEA	23 Jan 2012	not yet in force	Yes	Yes	
United Kingdom	TIEA	5 Dec 2007	9 Dec 2008	Yes	Yes	
United States	DTC	11 Jul 1986	2 Dec 1988	Yes	No	
United States	TIEA	2 Dec 1988	2 Dec 1988	Yes	No	

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](#) [PKF International](#))

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Any questions or queries should be addressed to: -

Gary Youinou

Via our [Contact Page](#) at KnowYourCountry.com