

Jamaica

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Jamaica	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) International Narcotics Control Majors List
Medium Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p>Major Investment Areas:</p> <p>Agriculture - products: sugarcane, bananas, coffee, citrus, yams, ackees, vegetables; poultry, goats, milk; shellfish</p> <p>Industries: tourism, bauxite/alumina, agro-processing, light manufactures, rum, cement, metal, paper, chemical products, telecommunications</p> <p>Exports - commodities: alumina, bauxite, sugar, rum, coffee, yams, beverages, chemicals, wearing apparel, mineral fuels</p> <p>Exports - partners: US 38.7%, Russia 8.1%, Canada 7.8%, Slovenia 5.6% (2012)</p> <p>Imports - commodities: food and other consumer goods, industrial supplies, fuel, parts and accessories of capital goods, machinery and transport equipment, construction materials</p> <p>Imports - partners: US 30.1%, Venezuela 14.8%, Trinidad and Tobago 14.4%, China 11.9% (2012)</p>	

Investment Restrictions:

The Government of Jamaica (GOJ) has recognized foreign investment as a source of development, and has no policies or regulations that reserve certain sectors exclusively for Jamaicans. Both the governing People's National Party (PNP) and the opposition Jamaica Labor Party (JLP) have committed themselves to attracting foreign direct investment.

However, projects that affect national security, have a negative impact on the environment, or involve sectors such as life insurance, media or mining are subject to regulation and certain restrictions.

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Section 1 - Background

The island - discovered by Christopher COLUMBUS in 1494 - was settled by the Spanish early in the 16th century. The native Taino, who had inhabited Jamaica for centuries, were gradually exterminated and replaced by African slaves. England seized the island in 1655 and established a plantation economy based on sugar, cocoa, and coffee. The abolition of slavery in 1834 freed a quarter million slaves, many of whom became small farmers. Jamaica gradually increased its independence from Britain. In 1958 it joined other British Caribbean colonies in forming the Federation of the West Indies. Jamaica gained full independence when it withdrew from the Federation in 1962. Deteriorating economic conditions during the 1970s led to recurrent violence as rival gangs affiliated with the major political parties evolved into powerful organized crime networks involved in international drug smuggling and money laundering. Violent crime, drug trafficking, and poverty pose significant challenges to the government today. Nonetheless, many rural and resort areas remain relatively safe and contribute substantially to the economy.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Jamaica 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 Jamaica was undertaken by the Financial Action Task Force (FATF) in 2016. According to that Evaluation, Jamaica was deemed Compliant for 6 and Largely Compliant for 10 of the FATF 40 Recommendations.

Key Findings from latest Mutual Evaluation Report (2016):

Jamaica does not have a completed National Risk Assessment (NRA), but as a result of the National Security Policy (NSP) and subsequent work done by the National Anti-Money Laundering Committee (NAMLC), there is a reasonable level of understanding of ML/TF risk at the country level and mitigation strategies have been put in place to address those risks. However, greater effort needs to be made to involve all stakeholders.

Jamaica cooperates with its international law enforcement counterparts, which has resulted in the prosecution and conviction of persons in some instances. Mutual legal assistance and extradition mechanisms are also used.

In general, there is a high level of cooperation amongst domestic competent authorities, which is facilitated by NAMLC. ML/TF measures are being implemented by the competent authorities some of whom have implemented a risk-based approach.

Jamaica's AML/CFT supervisory regime for financial institutions is adequate. There is a fairly robust licensing regime in place which deters criminals from holding senior management positions or becoming significant shareholders. The risk based approach (RBA) is still in its embryonic stage.

The Bank of Jamaica (BOJ) has not yet revised its AML/CFT Guidance Note to incorporate a risk based approach in line with FATF Recommendations and local legislation. The AML/CFT regime does not extend to the microfinance sector which makes it vulnerable to ML/TF abuse.

The NSP has identified attorneys as facilitators who are considered a high risk of ML/TF. The General Legal Council (GLC) has been established and appears willing to implement a robust system of AML/CFT compliance for attorneys that conduct transactions specified by the FATF Recommendations. However, the current injunction filed by the Jamaica Bar

Association (JBA) against the implementation of the law in this regard increases the vulnerability of the sector to ML/TF abuse.

DNFIs/DNFBPs are currently not subject to the Terrorism Prevention Act (TPA) and Regulations made thereunder.

Jamaica does not have sufficient measures in place to prevent the misuse of legal persons, legal arrangements and micro finance institutions for ML/TF.

The FIU has been able to execute its mandate to assist with the conduct of financial investigations, and the intelligence analyzed and disseminated by the FIU is used by LEAs and other competent authorities as a basis to conduct joint operations, audits and inspections. However, there should be more statistical data on how the analysis and disseminated STRs support the system of financial investigations.

Financial intelligence and other relevant information can be directly accessed in real time by various competent authorities to facilitate investigations of predicate offences, trace assets and identify trends and typologies.

There is insufficient coordination in the Jamaica Resident Magistrate's (RM) Court system with regard to pursuing ML/TF prosecutions. There is a tendency by Clerks not to put these matters forward and settle for the prosecution of the predicate offence or cash forfeiture aspect. Issues such as insufficient training in ML/TF matters, lack of priority of ML/TF cases, incomplete investigations and reticence on the part of the RM to deal with ML/TF matters, which tend to be more complicated, contribute to this situation.

Jamaica has pursued 'taking the profit out of crime' as a national policy. However, there is a need to assess how consistent confiscation and seizures are in keeping with the country's ML/TF risk.

In respect to legal persons, sanctions for ML/TF offences while considered proportionate are not effective or dissuasive.

The mechanisms to deal with terrorism and TF investigations are not effective.

A TF threat assessment of the NPO sector has not been undertaken. The sector is yet to develop a risk based CFT regime.

Jamaica has very limited experience in TF investigations and prosecutions and is yet to secure any convictions for the TF offence.

Jamaica has only recently established a dedicated unit to investigate TF offences in the form of the Counter-Terrorism and Organized Crime Branch (CTOC) within the Jamaica Constabulary Force (JCF), which has affected their level of effectiveness in dealing with TF matters.

Jamaica has commenced initiatives to formulate procedures to address proliferation financing (PF) risks. However, the measures to deal with PF will have to be developed substantially to meet the UN Security Council Resolutions' (UNSCRs) requirements and FATF's Recommendations.

There is a delay in communicating all UN designations to FIs. Additionally, there are delays in the implementation of targeted financial sanctions (TFS) for terrorism and PF.

FIs which are part of financial groups understand ML/TF risks and have implemented preventative measures through the adoption of group compliance programmes, compliance and Internal Audit functions.

Risks and General Situation

The NSP, identified narcotics and weapons trafficking, organised crime (both local and transnational), cybercrime (particularly in relation to lotto scams), fraud, extortion, contract killing, kidnapping, money laundering, facilitators who launder proceeds of crime and corruption within the public sector as Tier 1 threats. Local organised crime groups are prevalent in Jamaica, some of which have a wider reach into the Caribbean and North American region. In recent years the focus on criminal proceeds has shifted to the lotto scams being carried out by various Jamaican nationals on persons in other jurisdictions, primarily the United States of America (USA).

While the NSP did not focus specifically on the identification of ML/TF risk, the Assessors review of the results of the exercise, as well as discussions with the relevant agencies indicate that there is a reasonable understanding at the country level of the ML risk associated with the identified threats and vulnerabilities to Jamaica's national security. The main channels identified in the NSP most vulnerable to ML associated activities include the banking system and the use of DNFI/DNFBPs as facilitators to launder the proceeds of crime.

Additionally, there is a high degree of domestic cooperation among law enforcement agencies, supervisory authorities and other key AML/CFT stakeholders. At present there are minimal efforts in terms of policy and implementation of actions to mitigate the financing of proliferation of weapons of mass destruction. The results of the NRA would help to augment the country's understanding and assessment of ML/TF risks and would enable further prioritising, mitigating policies and actions to be implemented.

Terrorism has been identified in the NSP as a Tier 2 risk (low probability: high impact) and focused mainly on narco-terrorism and tourism related terrorism. The threat of terrorism is considered to be relatively low; however, the NSP did not address Jamaica's TF risk. Accordingly, more emphasis needs to be placed on the identification, assessment and mitigation of potential TF risks.

The abatement of the implementation of the AML/CFT regime against lawyers significantly affects the effectiveness of the AML/CFT system given the recognized risk of this sector and the fact that they perform the functions of Trust and Company Service Providers (TCSPs), which are currently not specifically designated as DNFI/DNFBPs.

There is a licensing regime administered by the BOJ and FSC which is a deterrent to criminals from using financial vehicles as a conduit for ML/TF activities. Fitness and propriety assessments are undertaken. Additionally, there are processes in place e.g. onsite examinations, which facilitate the feedback of deficiencies in AML/CFT policy and mitigation activities and for remedial actions to be taken.

The FSC and BOJ (in the case of the deposit taking institutions (DTIs)) have not administered any sanctions but they continue to work with the financial institutions to remedy deficiencies arising from the onsite examinations. However, the BOJ has revoked cambio licenses where there have been breaches of the Operating Directions and/or the AML legislation.

Supervisors have issued Guidance to the financial sector and are readily available and responsive to provide feedback on AML/CFT issues. The Bank of Jamaica has not yet revised its AML/CFT Guidance Notes to incorporate recent legislative changes which provide for a risk based approach to AML/CFT.

Financial institutions understand AML/CFT risks and have group compliance programmes approved by their board of directors. There is oversight of the compliance function by Audit Committees of the Board. To the extent possible, financial institutions seek to collect beneficial ownership information from customers.

US Department of State Money Laundering assessment (INCSR)

Jamaica is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Money laundering in Jamaica is primarily related to proceeds from illegal narcotics and weapons trafficking, financial fraud schemes, corruption, and extortion. It is largely perpetrated by organized criminal groups.

Jamaica's Financial Investigations Division (FID), which includes the FIU, has used the Proceeds of Crime Act (POCA) to seize properties and other assets believed to be derived from criminal activities. Jamaica has enforced the POCA with moderate success, but the law is still not being implemented to its fullest potential due to difficulties prosecuting financial crime and achieving convictions in these cases.

The government should make a concerted effort to identify money laundering-related activities, prosecute political and public corruption, and ensure financial institutions and DNFBPs are fully compliant with the law. Jamaica also should take steps to build the capacity of its law enforcement, prosecutors, and courts in order to successfully prosecute financial crime cases. It should review and modify its case-processing procedures to enhance its ability to prosecute financial crimes efficiently and effectively.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Money laundering in Jamaica is primarily related to proceeds from illegal narcotics, weapons trafficking, financial fraud schemes, corruption, and extortion. Jamaica continues to experience a large number of financial crimes related to advance fee fraud (lottery scams), cybercrime, bulk cash smuggling, and trade-based fraud. A large number of financial crimes related to cybercrime, including lottery-related financial fraud schemes, target U.S. citizens. The activities are largely perpetrated by the dozens of violent, organized criminal groups on the island.

KEY AML LAWS AND REGULATIONS

POCA permits post-conviction forfeiture, cash seizures, and the civil forfeiture of assets related to criminal activity. The act allows the court to assess a defendant's revenue from

illicit activities and to order post-conviction forfeiture of proceeds. The confiscation provisions apply to all property or assets associated with or derived from any criminal activity, including legitimate businesses used to launder illicitly derived money. FID continues to work with the Jamaica Constabulary Force (JCF) and other agencies to pursue cases that could result in asset seizure.

Jamaica's financial institutions (including money remitters and exchanges) file an inordinately high volume of STRs annually, the vast majority of which are likely defensive filings. They and DNFBPs are subject to a range of preventative measures in line with international standards. In 2017, a Jamaican court ruled that the POCA regime could be imposed on lawyers because it did not breach a lawyer's duty of confidentiality to clients.

Jamaica is a member of the CFATF, a FATF-style regional body.

AML DEFICIENCIES

Lengthy case prosecution delays hinder the effectiveness of the judicial system. The Jamaican courts and prosecutors have been unable to keep pace with increased crime, including financial crimes. Inefficient legal practice methods combined with corruption and a lack of accountability exacerbate an already overburdened justice system. Rather than pursuing money laundering as a stand-alone offense—which requires proof of the underlying unlawful activity, often a difficult task—Jamaican law enforcement and prosecutors tend to pursue predicate offenses to money laundering, which carry less serious consequences. Likewise, in plea bargains, the POCA offenses are sometimes dropped. The POCA is a powerful tool to counter money laundering; however, it is not achieving the desired or intended results.

To date, the regulatory entities have not used their enforcement authority to sanction reporting entities for identified shortcomings in adherence to AML regulations.

Political and public corruption both generate and facilitate illicit funds and activity.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

Jamaica has implemented the POCA with moderate success but continues to under-enforce it. The FID conducts programs to sensitize the public about POCA provisions to reduce the possibility individuals would unwittingly breach the law.

In 2016, there were 18 prosecutions and six convictions related to money laundering. Jamaican authorities have obtained a few convictions under section 101A of the POCA, which prohibits cash transactions greater than approximately U.S. \$7,870. From January through August 2017, FID forfeited approximately U.S. \$220,000 in cash and assets, while restraining approximately U.S. \$1.04 million in cash and other assets.

Jamaican authorities regularly collaborate with foreign law enforcement on cases of mutual interest, and there are a number of joint initiatives underway. Jamaica has been responsive to an increased number of United States requests for extradition for lotto scammers and money launderers. In 2017, there was more than a ten-fold increase over the number of such fugitives extradited to the United States as compared to the preceding two years.

Jamaica's Parliament is currently debating a law to make the Major Organized Crime and Anti-Corruption Agency, which currently falls under the auspices of the JCF, an independent

agency. Parliament has passed, though the Governor-General has not yet signed, the Integrity Commission Act, which will consolidate three anti-corruption bodies into one entity, the Integrity Commission, which will have enhanced prosecutorial authority.

Jamaica is implementing programs to address noted deficiencies.

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

According to the US State Department, Jamaica conforms with regard to all government legislation required to combat money laundering

EU White list of Equivalent Jurisdictions

Jamaica 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

Jamaica is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2017 (introduction):

Introduction

Jamaica remains the largest Caribbean supplier of marijuana to the United States and local Caribbean islands. Although cocaine and synthetic drugs are not produced locally, Jamaica is a transit point for drugs trafficked from South America to North America and other international markets. In 2016, drug production and trafficking were enabled and accompanied by organized crime, domestic and international gang activity, and police and government corruption. Illicit drugs are also a means of exchange for illegally-trafficked firearms entering the country, exacerbating Jamaica's security situation.

Drugs flow from and through Jamaica by maritime conveyance, air freight, human couriers, and private aircraft. Marijuana and cocaine are trafficked from and through Jamaica into other Caribbean nations, the United States, Canada, and the United Kingdom. Jamaica is a transit point for cocaine moving from Central America to the United States, and some drug trafficking organizations exchange Jamaican marijuana for cocaine.

Factors that contribute to drug trafficking include the country's convenient geographic position as a waypoint for illicit drugs trafficked from Latin America; its lengthy, rugged, and difficult-to-patrol coastline; a high volume of tourist travel and airline traffic; its status as a major transshipment hub for maritime containerized cargo; inadequate educational and employment opportunities for at-risk youth who engage in crime; and a struggling economy that encourages marijuana cultivation in rural areas.

The government and law enforcement authorities are committed to combating narcotics and illicit trafficking. However, their efforts were only moderately effective in 2016 because of insufficient resources, corruption, an inefficient criminal justice system, and the inability of lawmakers to adopt meaningful legislation to combat corruption. In 2015, legislation to decriminalize the possession and use of small amounts of marijuana for personal use (including religious purposes) went into effect.

Conclusion

Success stories from 2016 – all with U.S. and international support – have included the JCF Anti-Corruption Branch, which made steady progress in removing corrupt and unethical police officers, as well as the Major Organized Crime and Anti-Corruption Agency which continued its success in reducing Jamaica lottery scam operations that targeted retirees and the elderly in the United States. The Financial Investigation Division of the Ministry of Finance further increased its ability to curb money laundering and seize criminally-acquired assets. The JCF enhanced its ability to trace seized firearms, and criminal prosecutors received additional training throughout the island.

The momentum of progress gained within Jamaica's law enforcement agencies, however, is being limited by a chronic inability of prosecutors and the courts to keep pace and secure

prompt convictions. Jamaica must therefore continue to implement efforts to reform and strengthen its criminal court system.

US State Dept Trafficking in Persons Report 2016 (introduction):

Jamaica is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Jamaica is a source and destination country for adults and children subjected to sex trafficking and forced labor. Sex trafficking of Jamaican women and children reportedly occurs on streets and in night clubs, bars, massage parlors, and private homes, including in resort towns. Jamaican citizens have been subjected to sex trafficking and forced labor abroad, including in other Caribbean countries, Canada, the United States, and the United Kingdom. Communities vulnerable to sex trafficking and forced labor include residents of Jamaica's poverty-stricken areas effectively controlled by criminal "dons," and workers in the informal sector, particularly on family farms and in markets and shops. Child domestic workers may be subject to domestic servitude. Many children are reported missing in Jamaica; some of these children are subjected to forced labor or sex trafficking. Foreign nationals are subjected to forced labor in Jamaica and aboard foreign-flagged fishing vessels operating in Jamaican waters. NGOs and other local observers report child sex tourism is a problem in Jamaica's resort areas. Two former officials faced trafficking in persons charges.

The Government of Jamaica does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government secured two convictions, the first in seven years: one each for forced labor and sex trafficking. The government prosecuted nine trafficking cases against 14 alleged traffickers. The government developed a national action plan for 2015-2018, developed and implemented two new victim protection protocols, reported 52 suspected child trafficking cases, identified four confirmed trafficking victims who were provided government shelter and services, and increased funding to victim services. Officials identified few confirmed victims relative to the number of new trafficking investigations and the size of the vulnerable population.

US State Dept Terrorism Report 2010

Jamaican-U.S. counterterrorism cooperation included the Container Security Initiative and law enforcement cooperation. Jamaica also worked closely with the immigration and security agencies of countries such as Canada and the United Kingdom, both of which have sizeable Jamaican émigré communities and serve as transit points for travelers to Jamaica from many world regions.

Jamaica is a member of the Caribbean Financial Action Task Force. Jamaica has supported implementation of UNSCRs 1267 and 1373.

Jamaica is a member of the regional organizations Caribbean Community (CARICOM) and the OAS. Within the OAS, Jamaica is an active member of the Inter-American Committee Against Terrorism. Jamaica also actively supports efforts to improve regional security through the Caribbean Basin Security Initiative. The CARICOM Council of Ministers of National Security

meets regularly to discuss regional threats to security, including terrorism. Jamaica's Minister of National Security, Dwight Nelson, hosted the most recent such meeting on December 1, 2010 in Montego Bay.

International Sanctions

None applicable

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	44
World Governance Indicator – Control of Corruption	52

Corruption and Government Transparency - Report by US State Dept

Jamaica has a Corruption Prevention Act (CPA), which established a Corruption Prevention Commission in 2003 to, among other things: (1) receive, examine and document the statutory declarations of public sector workers; (2) receive and investigate any complaint regarding an act of corruption; and (3) conduct investigation into acts of corruption, if satisfied there are reasonable grounds to do so. To date there has been no enforcement, as the commission lacks the capacity to enforce the filing of declarations. Reports suggest that non-compliance is running at over 30 percent. However, the commission will be working with the Director of Public Prosecution to have enforcement measures implemented. The Embassy is not aware of any disproportionate application of corruption measures against foreign investors, but some members of the private sector perceive that the law is not applied impartially. During a 2010 panel discussion on governance, a Government of Jamaica Senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

Jamaica has ratified the Inter-American Convention Against Corruption. In 2008, Jamaica became party to the United Nations Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations. Prosecutors participate in regional anti-corruption conferences. The Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment. Transparency International (TI) performed a formal study of corruption in 2003, identifying widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, Jamaica's score of 3.0 out of 10 in 2009, moved to 3.3 in 2010, and remained at 3.3 during 2011. Jamaica's score moved up to 38 out of 100 in 2012 and 2013, ranking Jamaica at 83 of the 175 surveyed globally.

Corruption may well be the single greatest concern among Jamaicans, many of whom believe it is one of the root causes of the high crime rate. According to the January 6, 2013 edition of *the Gleaner*, in 2012 there were 54 police officers who were arrested for alleged acts of corruption. In recent times only a few politicians have been arrested on charges of corruption. One politician was being tried before the Judicial Review Court and experiencing various delays, he was exonerated after Resident Magistrate upheld a "no case submission". In another case, Contractor General Dirk Harrison also referred a junior government minister and a mayor to the Director of Public Prosecutions (DPP) for the illegal construction of shops at a municipal market. The DPP found no evidence to suggest that the minister was guilty of

conspiracy to defraud the municipality, However the DPP found that there was “clear evidentiary material to institute criminal proceeding” against the mayor for attempting to mislead the Contractor General, contrary to section 29 (a) of the Contractor General Act. There are concerns that the government lacks the political will to root out corruption but some positive efforts, as demonstrated in the above cases, have occurred.

Under the Corruption Prevention Act (CPA), it is an offense to solicit or accept a bribe. Public servants can be imprisoned for up to ten years and fined as much as JD\$ ten million if found guilty of engaging in acts of bribery. Individuals and companies are also criminally liable if they bribe foreign public officials and can be prosecuted and face the same penalties. The legislation covers public officials who meet the JD\$2 million salary threshold and those working in sensitive positions such as police and military officers. However, it is well known that a number of public officials have been delinquent in complying with mandatory filing. The creation of the CPA could be viewed as evidence that GOJ officials are taking anti-corruption efforts seriously. However, financial constraints have crippled the commission's ability to fully execute its mandate of enforcing asset declarations. In 2007, The GOJ passed into law the Proceeds of Crime Act (POCA), a powerful legal tool that allows for both criminal and civil forfeiture and criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing and corruption, and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. However, the GOJ has been very slow to use this law. More active enforcement of the POCA by the GOJ would certainly strengthen anti-corruption efforts and send a signal that the country is serious about illicit activity. Within Jamaica's Parliament, legislation is pending for a Special Prosecutor's Bill to target corruption. In 2011, a report written by the Contractor General about corruption in the Jamaican Development Infrastructure Program, led to the resignation of Mike Henry, then-Minister of Transportation & Works.

The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, then Prime Minister Patterson tabled a code of conduct in Parliament for government ministers. The 49-point code covers such issues as conflict of interest and integrity in the conduct of public and private business. The agency responsible for combating corruption is the Commission for the Prevention of Corruption. Other “watchdog” organizations operating in Jamaica include Transparency International, Jamaicans for Justice, Families Against State Terrorism and the Farquharson Institute of Public Affairs.

Section 3 - Economy

The Jamaican economy is heavily dependent on services, which accounts for more than 70% of GDP. The country continues to derive most of its foreign exchange from tourism, remittances, and bauxite/alumina. Remittances and tourism each account for 30% of GDP, while bauxite/alumina exports make up roughly 5% of GDP. The bauxite/alumina sector was most affected by the global downturn while the tourism industry and remittance flow remained resilient.

Jamaica's economy faces many challenges to growth: high crime and corruption, large-scale unemployment and underemployment, and a debt-to-GDP ratio of about 130%. The attendant debt servicing cost consumes a large portion of the government's budget, limiting its ability to fund the critical infrastructure and social programs required to drive growth. Jamaica's economic growth rate in the recent past has been stagnant, averaging less than 1% per year for over 20 years.

Jamaica's onerous public debt burden is largely the result of government bailouts to ailing sectors of the economy, most notably the financial sector. In early 2010, the Jamaican Government initiated the Jamaica Debt Exchange to retire high-priced domestic bonds and reduce annual debt servicing. Despite these efforts, debt continued to be a serious concern, forcing the government to negotiate and sign a new IMF agreement in May 2013 to gain access to approximately \$1 billion in additional funds. As a precursor, the government instigated a second National Debt Exchange in 2012. The IMF deal requires the government to reform its tax system, eliminate discretionary tax exemptions and waivers, and achieve an annual surplus of 7.5%, excluding debt payments, to reduce its debt below 100% of GDP by 2020. The SIMPSON-MILLER administration now faces the difficult prospect of having to achieve fiscal discipline to maintain debt payments while simultaneously attacking a serious crime problem that is hampering economic growth. High unemployment exacerbates the crime problem, including gang violence, which is fuelled by the drug trade.

Agriculture - products:

sugarcane, bananas, coffee, citrus, yams, ackees, vegetables; poultry, goats, milk; shellfish

Industries:

tourism, bauxite/alumina, agricultural-processing, light manufactures, rum, cement, metal, paper, chemical products, telecommunications

Exports - commodities:

alumina, bauxite, sugar, rum, coffee, yams, beverages, chemicals, apparel, mineral fuels

Exports - partners:

US 24.4%, Canada 16.5%, Russia 9.3%, Netherlands 8.9%, Iceland 7.2%, UK 6.5% (2015)

Imports - commodities:

food and other consumer goods, industrial supplies, fuel, parts and accessories of capital goods, machinery and transport equipment, construction materials

Imports - partners:

US 32.6%, Venezuela 12.4%, China 12%, Trinidad and Tobago 11.1% (2015)

Banking

Financial Institutions in Jamaica provide a full range of services and solutions for individual and business/corporate banking. These include current accounts, savings accounts, loans, credit cards and Internet banking (most institutions). Most credit cards issued by a local bank are for use in Jamaica only, but international credit cards have grown in importance. At the end of 2006 there were 133 financial institutions of which six were commercial banks, four were building societies, 17 were insurance companies, 50 were Securities Dealers, 47 were Credit Unions, four were Development Banks, and the rest were institutions registered under the Financial Institutions Act. These institutions provide services ranging from retail and corporate services to development and export financing. The Bank of Jamaica and the Financial Services Commission regulate the financial system. Following the meltdown of the financial sector in the 1990s, the GOJ increased the prudential and supervisory powers of the BOJ by passing the Financial Institutions Act and the Banking Act. Amendments were also made to the regulations governing Building Societies. A Deposit Insurance Corporation (JDIC) and a Financial Services Commission (FSC) were introduced to protect depositors and regulate institutions and brokers outside the scope of the Central Bank's oversight. These adjustments have brought the regulatory standards governing the financial sector up to international standards and should therefore aid, rather than impede, businesses.

Stock Exchange

The Jamaica Stock Exchange is the principal stock exchange of Jamaica. It was founded in 1968 in Kingston, Jamaica.

Executive Summary

The Government of Jamaica (GoJ) considers foreign direct investment (FDI) a key driver for economic growth and is undertaking significant structural reforms to improve its investment climate. After suffering from a stagnant economy for more than two decades and accumulating one of the highest debt-to-GDP ratios in the world, the GoJ approved a four-year International Monetary Fund (IMF) program in May 2013. As one of its first requirements, the GoJ replaced its discretionary investment incentives with legislation that simplifies the income tax regime and codifies tax benefits for all investors. Despite this and other measures to improve its business climate, Jamaica's bureaucracy remains a stumbling block in the facilitation of investment with delays and challenges particularly noteworthy in registering property, paying taxes, and enforcing contracts.

Jamaica received almost USD700 million in FDI in 2014, up from USD650 million in 2013. Tourism and infrastructure remain key sectors for investment, accounting for two-thirds of the 2014 outlay. Spanish and Chinese investors continue to dominate investment in these sectors. Business process outsourcing (BPO), including call centers and other remote technical support, has become an emerging sector for local and overseas investment - most prominently from the U.S. - and the government recently approved a five-year plan to encourage expansion. One drawback is Jamaica's high electricity price - about 4-5 times higher than in the United States primarily due to inefficient petroleum-based power plants and outdated electricity infrastructure. While this could be an impediment for investment in some fields, Jamaica's energy sector modernization itself has become increasingly attractive to U.S. investors.

The primary investment risk in Jamaica is crime because security is required to protect the physical infrastructure of most properties and the country's murder rate remains one of the highest in the hemisphere. Additional risks include the challenges in navigating the government bureaucracy, the stagnant and price-sensitive economy, low labor productivity, and the possibility for labor disputes, some of which have led to sporadic protests in the past. The GoJ recently enacted legislation to permit flexible work arrangements as a means of improving productivity. While public perception of corruption is high and remains a consideration for investors, few U.S. firms have identified corruption as a significant deterrent to starting a business operation in Jamaica. Successive administrations have attempted to address corruption by enacting legislation and signing various international conventions. To date, there have been no high-level convictions. Jamaica improved its ranking from 85 to 69 out of 168 countries surveyed globally in 2015 in Transparency International's Corruption Perception Index.

A peaceful transition of government followed the Jamaica Labour Party's (JLP) narrow victory over the People's National Party in national elections on February 25, 2016. Wholesale changes in policies are unlikely and the new administration has pledged to focus on economic growth and job creation while maintaining fiscal prudence and continuing to meet the conditions of its IMF agreement.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	69 of 168	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2016	64 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	96 of 141	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country (\$M USD, stock positions)	2014	\$199M	BEA
World Bank GNI per capita	2014	\$5,150	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Government of Jamaica is open to foreign investment in all sectors of its economy.

Under International Monetary Fund (IMF) guidance, the GOJ has made significant structural reforms to its economy. Between May and December 2013, Jamaica's Parliament passed 11 pieces of legislation to improve the business environment and support economic growth through a simplified tax system and broadened tax base. During 2014 the government passed an Insolvency Act to make bankruptcy proceedings more efficient. The establishment of credit bureaus and a Collateral Registry under the Secured Interest in Personal Property (SIPP) legislation are improving access to credit. Jamaica made starting business easier by consolidating forms and made electricity less expensive by reducing the cost of external connection works. The government implemented an electronic platform for the payment of taxes and has established a 90 day window for development approvals. New Electricity and Procurement Acts were also passed and should positively impact the investment climate.

Jamaica's commitment to regulatory reform has been an intentional effort to become a more attractive destination for foreign investment. According to the World Bank's "Doing Business 2016" report, these legislative and economic reforms have helped improve the country's investment climate ranking from 71 to 64 (out of 189). Jamaica boasts the highest ranking in the Caribbean and sixth place in Latin America and the Caribbean, registering improvement in 6 of 10 categories. The country made significant improvement in resolving insolvency, moving from 60 to 35, following the passage of new bankruptcy legislation and now ranks among the top 10 in starting a business and getting credit. Jamaica improved 8 spots on the Global Competitiveness Index and is ranked 86 out of 144 countries for 2014/15. The country is ranked the third best country to do business in Latin America and the Caribbean according to the 2014 Forbes Best Countries for Business Report. Bureaucracy

remains a major impediment, with the country continuing to underperform in the areas of getting electricity, registering property, paying taxes and enforcing contracts.

Other Investment Policy Reviews

Jamaica has not undertaken any investment policy reviews within the last three years in conjunction with the World Trade Organization (WTO), Organization for Economic Cooperation and Development (OECD), or United Nations Conference on Trade and Development (UNCTAD). The government last conducted a WTO review in January 2011 and an OECD review in 2004. Jamaica's Trade and Investment entity (JAMPRO) published a summary of Jamaica's economic & political landscape for potential investors. It is available at: <http://www.jamaicatradeandinvest.org/resources/investing-jamaica-2015>.

With IDB funding, a Tholons Report published in July 2012 evaluates opportunities in Jamaica's Business Process Outsourcing (BPO) sector. <http://jamaicacsi.org/wp-content/uploads/2012/05/IDB-Tholons-Jamaica-Carving-a-Niche-in-the-Global-Outsourcing-Market.pdf>

Laws/Regulations on Foreign Direct Investment

There are no specific laws/regulations specifically related to foreign investment.

Business Registration

Businesses can register using the "Super Form," a single *Business Registration Form for New Companies and Business Names*. The Companies Office of Jamaica (ORC) acts as a "one-stop-shop," effectively reducing the registration time to between one and three days. Foreign companies can register using these forms, with or without the assistance of an attorney/notary. The "Super Form" can be accessed under *Forms* at the Companies Office of Jamaica's website, <https://www.orcjamaica.com>.

Jamaica trade and investment promotion agency (JAMPRO) is the government agency responsible for promoting business opportunities to local and foreign investors. While JAMPRO does not institute general criteria for investors, the institution targets specific sectors as well as export generating investment. <http://www.jamaicatradeandinvest.org/>

Micro, small and medium-sized enterprises (MSME) in Jamaica tend to employ less than ten employees and are assisted by JAMPRO and the Jamaica Business Development Corporation primarily through business facilitation and capacity building. Such fee-based services would be made available to foreign-owned MSMEs. <https://www.jbdc.net/>

Industrial Promotion

JAMPRO lists the following priority sectors for investment: Logistics; Knowledge Services; Tourism; Manufacturing; Agribusiness; Creative Industries; Mining; and Energy. However, sector-specific incentives have been phased out and replaced by the new omnibus fiscal incentives framework that provides varying levels of tax relief with respect to customs duties, stamp duties and corporate income tax (see Section 5 Investment Incentives). The GoJ has also prioritized a Global Logistics Hub initiative with aspirations of positioning the country as a significant player in the global shipping and logistics industry. As part of the Global Logistics Hub Initiative and facilitation of investments into Jamaica, the government passed a Special Economic Zone Act effectively carving out geographic areas for "high impact investors." The

Act allows for incentives such as low corporate tax rates to be offered to attract international investors. <http://www.jamaicatradeandinvest.org/>

Limits on Foreign Control and Right to Private Ownership and Establishment

All private entities, foreign and domestic, are entitled to establish and own business enterprises and engage in all forms of remunerative activity, subject to, inter alia, labor, registration and environmental requirements. Jamaica does not impose limits on foreign ownership or control, and local laws do not distinguish between local and foreign investors. There are no sector-specific restrictions that discriminate against market access.

The Embassy is not aware of any discrimination against foreign investors at the time of initial investment or after the investment is made. However, under the Companies Act investors are required to either establish a local company or register a branch office of a foreign-owned enterprise. Branches of companies incorporated abroad must also register with the Registrar of Companies if they intend to operate in Jamaica. There are no laws or regulations requiring firms to adopt articles of incorporation or association that limit or prohibit foreign investment, participation or control.

Privatization Program

Jamaica has actively courted foreign investors as part of its divestment strategy. In certain instances the government encourages local participation, and restrictions may be placed on certain assets due to national security concerns. Privatization can occur through sale, lease or concession. Transactions are generally executed through public tenders, but the government reserves the right to accept unsolicited proposals. The Development Bank of Jamaica, which oversees the privatization program, is mandated to ensure that the process is fair and transparent. When some entities are being privatized, advertisements are placed locally and through international publications, such as the Financial Times, New York Times and Wall Street Journal, to attract foreign investors. Requests for proposals normally include the specific requirements under which bidders are allowed to participate and the criteria by which proposals will be evaluated. Foreign investors have won most of the privatization bids in the last decade.

The Government has identified dozens of public assets to be privatized, drawing from various sectors. While the time taken to divest assets depends on state of readiness and complexity, on average, transactions take between 18 and 24 months. The process involves pre-feasibility and due diligence assessments; feasibility studies; pre-qualification of bidders; and a public tender. In April 2015, the government signed a 30-year concession agreement for operation of the Kingston Container Terminal port facility. The Urban Development Corporation manages many assets available for privatization. Other assets to be privatized include Norman Manley International Airport, Petroleum Company of Jamaica and Caymanas Track Limited.

List of current privatization transactions: <http://www.dbankjm.com/privatisation/current-transactions>

Screening of FDI

No formal screening mechanisms exist for foreign investments. If investors apply for government incentives or will operate in a regulated sector, they must meet basic prerequisites, and due diligence may be carried out by the approving or regulating

authority. This process is not discriminatory and is not intended to impede investment. Jamaica has undertaken a comprehensive program of trade and financial liberalization and most sectors are open to foreign investment. The government reserves the right to approve or reject projects with national security implications or for environmental considerations. Sectors such as financial services, media, energy and mining are subject to regulatory approvals and regulation.

Competition Law

The Fair Trading Commission (FTC), an agency of the Ministry of Industry, Commerce, Agriculture and Fisheries (MICAF), administers Jamaica's Fair Competition Act (FCA). The major objective of the FCA is to foster competitive behavior and provide consumer protection. The Act therefore forbids arrangements that substantially lessen competition or behavior that results in the abuse of a dominant position. The Act proscribes the following anti-competitive practices: resale price maintenance; tied selling; price fixing; collusion and cartels; and bid rigging. The act does not prohibit mergers or acquisitions that could lead to the creation of a monopoly. However, the government has raised the possibility of enacting antitrust legislation. The FTC is empowered to investigate breaches of the Act. Businesses or individuals in breach can be taken to court if they fail to take corrective measures outlined by the FTC.

2. Conversion and Transfer Policies

Foreign Exchange

There are no restrictions on holding funds or on converting, transferring, or repatriating funds associated with an investment. The central bank (Bank of Jamaica) manages a floating exchange rate of the Jamaican Dollar with no pre-determined path. The BOJ may intervene with the sales and purchases of foreign currency to smooth out demand and supply. Investment-related funds are freely convertible to regularly traded currencies, particularly into United States and Canadian Dollars and the Great Britain Pound. However, foreign exchange transactions must be conducted through authorized foreign exchange dealers, 'cambios,' and bureau de change. Foreign exchange is generally available and investors are free to remit their investment returns.

Remittance Policies

The country's financial system is fully liberalized and subject to market conditions. There is no required waiting period for the remittance of investment returns. Any person or company can purchase instruments denominated in foreign currency. There are no restrictions or limitations on the inflow or outflow of funds for the remittance of profits or revenue. The country does not possess the financial muscle to engage in currency manipulation.

According to the 2016 International Narcotics Control Strategy Report (INCSR), Jamaica is a country "of concern" for Money Laundering and Financial Crimes. The Financial Action Task Force commented the country for making significant progress in addressing deficiencies identified in their 2005 Mutual Evaluation Report and could therefore exit the follow-up process.

3. Expropriation and Compensation

Expropriation is generally not an issue in Jamaica, and there are no outstanding cases. However, expropriation of land may take place for national development under the Land Acquisition Act, which provides for compensation on the basis of market value. The U.S. Embassy in Kingston is not aware of any expropriation-related litigation ongoing between the Jamaican government and any private individual or company. However, the U.S. Embassy has assisted investors who had property expropriated during the 1970's socialist regime, with a payment in one such case received as recently as 2010.

4. Dispute Settlement

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

Jamaica has a common law legal system and court decisions are generally based on past judicial declarations. The Jamaican Constitution provides for an independent judiciary with a three-tier court structure. A party seeking to enforce ownership or contractual rights can file a claim in the Resident Magistrate or Supreme Court. Appeals on decisions made in these courts can be taken before the Court of Appeal and then to the Judicial Committee of the Privy Council in the United Kingdom. The Caribbean Court of Justice (CCJ) hears appeals in civil and criminal matters from common law courts within CARICOM member states such as Jamaica.

Jamaica does not have a single written commercial or contractual law, and case law is therefore supplemented by the following pieces of legislation: (1) Arbitration (Recognition and Enforcement of Foreign Awards) Act; (2) Companies Act; (3) Consumer Protection Act; (4) Fair Competition Act; (5) Investment Disputes Awards (Enforcement) Act; (6) Judgment (Foreign) (Reciprocal Enforcement) Act; (7) Law Reform (Frustrated Contracts) Act; (8) Loans (Equity Investment Bonds) Act; (9) Partnership (Limited) Act; (10) Registration of Business Names Act; (11) Sale of Goods Act; (12) Standards Act; and, (13) Trade Act. The commercial and civil divisions of the Supreme Court have jurisdiction to hear intellectual property claims.

Jamaica enforces the judgments of foreign courts through: (1) The Judgment and Awards (Reciprocal Enforcement) Act; (2) The Judgment (Foreign) (Reciprocal Enforcement) Act; and, (3) The Maintenance Orders (Facilities for Enforcement) Act. Under these acts, judgments of foreign courts are accepted where there is a reciprocal enforcement of judgment treaty with the relevant foreign state. International arbitration is also accepted as a means for settling investment disputes between private parties. Jamaica is a signatory to the New York Convention (the Convention on the Recognition and Enforcement of Foreign Arbitral Awards) which governs the recognition and enforcement of foreign arbitration awards. The Jamaican Arbitration (Recognition and Enforcement of Foreign Awards) Act enables foreign arbitral awards under the New York Convention to be enforced in Jamaica.

Bankruptcy

Jamaica enacted new insolvency legislation in 2014 that replaced the Bankruptcy Act of 1880 and seeks to make the insolvency process more efficient. The act prescribes the circumstances under which bankruptcy is committed; the procedure for filing a bankruptcy petition; and the procedures to be followed in the administration of the estates of bankrupts. The reform addresses bankruptcy; insolvency; receiverships; provisional supervision; and winding up proceedings. The law addresses corporate and individual insolvency and facilitates the rehabilitation of insolvent debtors, while removing the stigma formerly associated with either form of insolvency. Both insolvents and "looming insolvents" (persons

who will become insolvent within twelve months of the filing of the proposal if corrective or preventative action is not taken) are addressed in the reforms.

The act contains provision for debtors to make proposal to their creditors for the restructuring of debts, subject to acceptance by the creditor. Creditors can also invoke bankruptcy proceedings against the debtor if the amount owed is not less than the prescribed threshold, or the debtor has committed an act of bankruptcy. The filing of a proposal or notice of intention to file a proposal creates a temporary stay of proceedings. During this period, the creditor is precluded from enforcing claims against the debtor. The stay does not apply to secured creditors who take possession of secured assets before the proposal is filed; gives notice of intention to enforce against a security at least 10 days before the notice of intention or actual proposal is filed; or, rejects the proposal. The 2014 legislation makes it a criminal offence if a bankrupt defaults on certain obligations set out in the legislation.

Jamaica has moved up an impressive 25 places to 35 on the *Resolving Insolvency* ranking of the 2016 Doing Business Report due to new legislation. Bankruptcy proceedings now take about a year to resolve; costing 18% of the estate value; with an average recovery rate of 64%.

http://www.japarliament.gov.jm/attachments/341_The%20Insolvency%20Act%202014%20No.14%20rotated.pdf - *Bankruptcy and Insolvency Act*

Investment Disputes

While not a formal investment dispute, in 2005 the government implemented a levy on incoming telephone calls from overseas to finance a Universal Access Fund for e-learning activities in Jamaican schools. U.S. telephone companies protested this levy and requested Federal Communications Commission backing to persuade the Jamaican government to either remove the fee or level the playing field by imposing a similar fee on local companies. This dispute remains unresolved.

International Arbitration

Jamaica accepts international arbitration of investment disputes between foreign investors and the Government as well as with private parties. Local courts recognize and enforce foreign arbitral awards. The Caribbean Court of Justice (CCJ) serves as the international tribunal for disputes within the CARICOM Single Market and Economy. The Dispute Resolution Foundation and the Caribbean Branch of the Chartered Institute of Arbitrators both facilitate arbitration. For countries such as the U.S. that have a Bilateral Investment Treaty (BIT) with Jamaica, the rules of this treaty apply for qualifying investors. Other foreign investors are given national treatment and civil procedures apply. Disputes between enterprises are handled in the local courts, but foreign investors can refer cases to International Center for Settlement of Disputes (ICSID). There have been cases of trademark infringements in which U.S. firms took action and were granted restitution in the local courts.

ICSID Convention and New York Convention

Jamaica became a signatory to the International Center for Settlement of Disputes (ICSID) in 1965. Jamaica is a signatory to the New York Convention (the Convention on the Recognition and Enforcement of Foreign Arbitral Awards), which governs the recognition and enforcement of foreign arbitration awards. The Jamaican Arbitration (Recognition and Enforcement of Foreign Awards) Act enables foreign arbitral awards under the New York

Convention to be enforced in Jamaica. International arbitration is also accepted as a means for settling investment disputes between private parties. Jamaica enforces the judgments of foreign courts through: (1) The Judgment and Awards (Reciprocal Enforcement) Act; (2) The Judgment (Foreign) (Reciprocal Enforcement) Act; and, (3) The Maintenance Orders (Facilities for Enforcement) Act. Under these acts, judgments of foreign courts are accepted where there is a reciprocal enforcement of judgment treaty with the relevant foreign state.

Duration of Dispute Resolution – Local Courts

The system has a long tradition of being fair, but court cases can take years or even decades to resolve. Challenges with dispute resolution usually reflect broader problems within the court system including long delays and resource constraints. Subsequent enforcement of court decisions or arbitration awards is usually adequate, and the local court will recognize the enforcement of an international arbitration award.

A specialized Commercial Court was established in 2001 to expedite the resolution of commercial cases. The rules do not make it mandatory for commercial cases to be filed in the Commercial Court and the Court has been largely underutilized by litigants.

Subsequent enforcement of court decisions or arbitration awards is usually adequate, and the local court will recognize the enforcement of an international arbitration award.

Jamaica ranked 117 in the 2015 Doing Business Report for the length of time taken for the enforcement of contracts in the courts.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Jamaica is a signatory to the World Trade Organization (WTO) Agreement and is in compliance with most Uruguay Round obligations, including TRIMS obligations. The GoJ passed a suite of legislation referred to as "the Omnibus legislation" that took effect on January 1, 2014, fulfilling its WTO mandate and replacing incentives that were non-compliant with the WTO Agreement on Subsidies and Countervailing Measures.

Investment Incentives

The Fiscal Incentives (Miscellaneous Provisions) Act 2013 repeals most of the legacy incentive legislation and provides flexibility for new tax incentives to only be granted in relation to the bauxite sector, export free zone activities, the relocation of corporate headquarters, and Junior Stock Exchange listings. The Act also outlines the arrangement for transitioning to the new regime. Continuing beneficiaries may elect to keep old incentives such as relief from income tax and customs duty as well as zero-rated GCT status for imports.

Below are short descriptions of notable, recently-enacted investment incentives.

Omnibus legislation - Provides tax relief on customs duties, additional stamp duties and corporate income tax. These benefits are granted under the following four areas:

1. *The Fiscal Incentives Act*: Targets small and medium size businesses and reduces the effective corporate income tax rate by applying: (a) an Employment Tax Credit (ETC)

at a maximum value of 30%; and (b) a capital allowance applicable to a broadened definition of industrial buildings.

2. *The Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act*: Targets large-scale projects and/or pioneering projects and provides for an improved and more attractive rate for the ETC. Projects will be designated either as large-scale or pioneer, based on a decision by Parliament and subject to an Economic Impact Assessment.
3. *Revised Customs Tariff*: Provides for the duty free importation of capital equipment and raw material for the productive sectors.
4. *Revised Stamp Duty Act*: Provides exemption from additional stamp duty on raw materials and non-consumer goods for the manufacturing sectors.

Urban Renewal Act: Companies that undertake development within Special Development Areas can benefit from Urban Renewal Bonds, a 33.3% investment tax credit, tax free rental income and the exemption from transfer tax and stamp duties on the 'improved' value of the property.

Bauxite and Alumina Act: Under this act, bauxite/alumina producers are allowed to import all productive inputs free of import duties, VAT and other port related taxes and charges.

The Foreign Sales Corporation Act: This act exempts income tax for five years for qualified income arising from foreign trade. U.S. law through the Tax Information Exchange Agreement (TIEA) reinforces this incentive.

The Jamaican EX-IM Bank provides concessionary interest rate loans for trade financing, while the Development Bank of Jamaica offers reduced lending rates to the productive sectors. Special tax incentives exist for companies that register on the junior stock market.

Special Economic Zone Act: In 2015, Jamaica passed legislation for the setting up and operation of Special Economic Zones (SEZs). The SEZ Act repeals the Jamaica Free Zone Act, making way for; (1) the designation; promotion; development; operation; and, management of Special Economic Zones; (2) the establishment of a SEZ Authority; and, (3) the granting of benefits and other measures in order to attract domestic and foreign investments. The SEZ Act also ensured that Jamaica came into conformity with the World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures by the December 15 deadline.

Income Tax Act (Junior Stock Exchange): As of January 1, 2014, companies listed on the Junior Stock Exchange are not required to pay income tax in the first five years. This benefit is expected to expire on December 31, 2016.

Research and Development

Foreign firms are allowed to participate in GOJ-financed or subsidized research and development programs on the basis of national treatment. However, few opportunities exist for such programs.

Performance Requirements

No performance requirements are generally imposed as a condition for investing in Jamaica, and government-imposed conditions to invest are not overly burdensome. However,

companies with Free Zone status must export at least 85 percent of their output. The government does not mandate local employment, although the use of foreign workers to fill semi-skilled and unskilled jobs is generally frowned upon, especially by trade unions. When requesting work permits for foreign workers, both local and foreign employers must describe efforts to recruit locally.

Data Storage

The Jamaican government does not follow “forced localization,” requiring domestic content in goods or technology. There are no requirements to provide the government access to surveillance of data, and there are no restrictions on maintaining certain amounts of data storage within the country.

6. Protection of Property Rights

Private entities, whether foreign or domestic, generally have the right to freely establish, own, acquire, and dispose of business enterprises and may engage in all forms of remunerative activity.

Real Property

Property rights are guaranteed by the Constitution. Jamaica’s Registration of Titles Act recognizes and provides for the enforcement of secured interests in property by way of mortgage. It also facilitates and protects the acquisition and disposition of all property rights, though working through Jamaica’s bureaucracy can result in significant delays. In particular, it sometimes takes a long time for landowners to secure titles.

Approximately 55% of the land in Jamaica is registered, although a large percentage of those properties do not have current title, as many families who pass land ownership from parent to child often do not go through the proper legal channels due to the cost and time involved. The Government has made an effort to improve the percentage of land with clear title, but much work is left to be done.

Squatting is also a major challenge in Jamaica, where nearly 20% of the population lives as squatters. Three-quarters of squatters reside on government lands. Under the Registration of Titles Act, a squatter can claim a property by adverse possession (without compensating the owner for the land) if a person can demonstrate that he has lived on government land for more than 60 years, or on private property for more than 12 years undisturbed (including without any payment to the land owner). There are no specific regulations regarding land lease or acquisition by foreign and/or non-resident investors.

The country's Doing Business Report ranking for ease of “registering property” was 122 in 2016 due largely to the number of procedures and high costs involved. Jamaica continues to outperform other Latin America and Caribbean countries in the time required to close a property transaction.

Registration of Titles Act -

<http://moj.gov.jm/sites/default/files/laws/Registration%20of%20Titles.pdf>

Intellectual Property Rights

Jamaica has one of the stronger IP protection regimes in the Caribbean, although legislative and enforcement gaps still exist. Jamaica is a member of the World Intellectual Property

Organization (WIPO) and is a signatory of the Berne Convention. Jamaica and the U.S. have an Intellectual Property Rights Agreement and a BIT, which provide assurances to protect intellectual property. It is relatively easy to register IP, and The Jamaica Intellectual Property Office (JIPO) provides good assistance to parties interested in registering IP, and support investors' efforts to enforce their rights. Overall, protections across all types of IP are improving.

Law enforcement efforts to combat counterfeit and pirated goods are adequate on the ground, but border enforcement remains a challenge. IP violations tend to be more in relation to physical goods, while electronic IP theft is less common.

The country's trademark and copyright regimes already satisfy the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), although the patent and design law is not yet TRIPS compliant. A new Patent & Designs Bill, including new rules and fee structures, has been drafted and has been under review by the Chief Parliamentary Council of Jamaica for many years. The Geographical Indications Act (GI) of 2004 is now fully in force and TRIPS compliant, protecting products whose particular quality or reputation is attributable to its geographical origin. General law provides protection for trade secrets, and protection against unfair competition is guaranteed under the Fair Competition Act.

In the area of copyright protection, amendments to the Copyright Act passed in June 2015 fulfilled its obligations under the WIPO Internet Treaties and extended copyright protection term from 50 to 95 years. The Copyright Act complies with the TRIPS Agreement and adheres to the principles of the Berne Convention, and covers works ranging from books and music to computer programs. Amendments in June 1999 explicitly provide copyright protection on compilations of works such as databases and make it an offense for a person to manufacture or trade in decoders of encrypted transmissions. It also gives persons rights in encrypted transmissions or in broadcasting or cable program services a right of action against persons who infringe upon their rights.

Jamaica, along with several other Caribbean countries, have been cited in the last several years' Special 301 Report for the absence of compensation to performance rights organizations as well as due to concerns regarding cable and satellite broadcasting of copyrighted network programming.

Enforcement

A special unit of the police with support from Customs tracks and reports the seizures of counterfeit goods, valued at USD15 million between April 2013 and April 2014. The most commonly counterfeited goods include CDs/DVDs, alcohol, cigarettes, clothing, handbags, pharmaceuticals, and lotions/creams. However, border enforcement remains a challenge, as customs officers do not exercise ex officio authority to seize and destroy counterfeit goods and rights holders must first be provided with visual samples of the suspect merchandise to verify the item as counterfeit, submit a declaration indicating the differences between the fake from the actual product, and provide an authorization to seize the merchandise.

Rights holders are responsible for paying the costs associated with storage and destruction of counterfeit goods. Presently the Commissioner may grant up to ten days for a right holder to produce the required evidence and commitments before releasing suspected counterfeit goods that are in transit.

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/>.

Resources for Rights Holders

Embassy point of contact:

Jeremy Slezak

Economic/Commercial Officer

876-702-6028

SlezakJD@state.gov

American Chamber of Commerce - <http://www.amchamjamaica.org/>

List of local attorneys: http://kingston.usembassy.gov/attorney_services3.html

Jamaica Intellectual Property Office - <https://www.jipo.gov.jm/>

7. Transparency of the Regulatory System

Jamaica's legal, regulatory and accounting systems are transparent and consistent with international norms, and Jamaica has adopted the new International Financial Reporting System. Proposed legislation is available for public comment and submissions are generally invited from members of the public for items considered to be controversial. A Fair Competition Act (FCA) was implemented in 1993, administered by the Fair Trading Commission (FTC). The main objective of the FCA is to prevent business interests and government policies from hindering the efficiencies to be gained from a competitive system (See Section 1 Competition Law). The U.S. Embassy is not aware of any informal regulatory processes managed by NGOs or private sector associations or of any private sector and/or GOJ effort to restrict foreign participation in industry standards-setting consortia or organizations.

8. Efficient Capital Markets and Portfolio Investment

Credit is available on market terms, and foreigners are allowed to borrow freely on the local market at market-determined rates of interest. A relatively effective regulatory system has been established to encourage and facilitate portfolio investment. The Financial Services Commission and the Bank of Jamaica (BOJ), the central bank, regulate these activities.

Money and Banking System, Hostile Takeovers

At the end of 2014, there were 11 supervised deposit-taking institutions consisting of 6 commercial banks, 2 merchant banks (Licensed under the Financial Institutions Act) and 3 building societies. The number of credit unions shrank from 47 at the end of 2009 to 38 at the end of 2014. However, credit union membership increased to over one million for the first time. At the end of 2014, commercial banks held assets of over USD7 billion. Non-performing loans were just over USD160 million, or 2.3% of total assets. Five of the country's six commercial banks, including the four largest, are foreign-owned. After a financial sector crisis in the mid-1990s led to consolidations, the sector has remained largely stable. The regulatory framework is now in line with international standards and legislation passed in 2013 has enhanced the BOJ's regulatory powers.

9. Competition from State-Owned Enterprises

Jamaican SOEs are most active in the agriculture, mining, energy and transport sectors of the economy. Of 190 public bodies listed, 82 are self-financing and are therefore considered SOEs as either limited liability entities established under the Companies Act of Jamaica or statutory bodies created by individual enabling legislation. SOEs generally do not receive preferential access to government contracts. SOEs must adhere to the provisions of the GOJ (Revised) Handbook of Public Sector Procurement Procedures and are expected to participate in a bidding process to provide goods and services to the government. SOEs also provide services to private sector firms. SOEs must report quarterly on all contracts above a prescribed limit to the Office of the Contractor General. Since 2002, SOEs have been subject to the same tax requirements as private enterprises. SOEs are also required to purchase government-owned land and raw material and execute these transactions on similar terms as private entities would.

Jamaica's Public Bodies Management and Accountability Act (PBMA) requires SOEs to prepare annual corporate plans and budgets, which must be debated and approved by Parliament. As part of the government's economic reform agenda, SOE performance is monitored against agreed targets and goals, with oversight provided by stakeholders including representatives of civil society. The GoJ has prioritized divestment of SOEs, particularly the most inefficient. Private firms compete with SOEs on fair terms and SOEs generally lack the same profitability motives as private enterprises, leading to the GOJ absorbing the debt of loss-making public sector enterprises.

<http://www.mof.gov.jm/documents/publications/document-centre/file/1065.html>

OECD Guidelines on Corporate Governance of SOEs

In 2012, the government approved a Corporate Governance Framework (CGF) to promote improved performance by SOEs. While Jamaican SOEs are not required to adhere to OECD Guidelines on Corporate Governance, the CGF is based on international best practices and principles of corporate governance.

Jamaica's public bodies report to a Board of Directors appointed by the responsible portfolio minister. No general rules guide the allocation of SOE board positions, but some entities may allocate seats to specific stakeholders. Under the CGF, persons appointed to boards should possess the skills and competencies required for the effective functioning of the entity. However, some board members are selected due to political considerations. The Jamaican court system, while notoriously slow, is respected for being fair and balanced and in many cases has ruled against the Government of Jamaica and its agents.

Sovereign Wealth Funds

Jamaica does not have a sovereign wealth fund or an asset management bureau.

10. Responsible Business Conduct

Responsible Business Conduct (RBC) among many Jamaican companies remains a nascent concept. In 2013, the government provided additional financial incentives for corporations to support charity work through the Charities Act, under which corporations and individuals can claim a tax deduction on contributions made to registered charitable organizations. Quite a few large publicly listed companies and multinational corporations in Jamaica

maintain their own foundations that carry out social and community projects to support youth employment, reduce crime and fight corruption.

OECD Guidelines for Multinational Enterprises

Jamaica is not an adhering government to the OECD Guidelines for Multinational Enterprises. However, the GoJ is in general agreement with such concepts.

11. Political Violence

Crime poses a greater threat to foreign investments in Jamaica than political violence. Violent crime, rooted in poverty, unemployment, and drug trafficking, is a serious problem in Jamaica, particularly in urban areas. Sporadic gang violence and shootings are concentrated in specific inner city neighborhoods, but can occur elsewhere. Extortion is a serious problem in certain urban commercial areas, and although rare, has also been known to occur on large construction project sites. In 2014, four employees of China Harbor Engineering Company (CHEC) were killed while transporting a USD20,000 payroll for workers. In April 2009 small sporadic disturbances occurred in response to a new gasoline tax.

12. Corruption

Under the Corruption Prevention Act, public servants can be imprisoned for up to ten years and fined as much as USD100,000 if found guilty of engaging in acts of bribery, including bribes to foreign public officials. The Major Organized Crime and Anticorruption Agency (MOCA) independently investigates official corruption and organized crime. The Corruption Prevention Commission (CPC) oversees statutory financial declarations of public sector workers and investigates alleged acts of corruption. The Integrity Commission investigates corruption allegations for members of Parliament, and the Office of the Contractor General (OCG) seeks to ensure transparency and efficiency in government procurement. A key area of concern for corruption is in government procurement, on which the OCG serves as a watchdog. However, successful prosecutions for corruption are rare and the compliance rate for mandatory financial reports is around 52%.

Many Jamaicans believe that corruption is one of the root causes of Jamaica's high crime rate and economic stagnation. In 2015, Transparency International gave Jamaica a score of 41 out of a possible 100 on the Corruption Perception Index (CPI), the second best ranking of six countries in the Caribbean. According to the CPI, 85% of respondents in Jamaica felt that political parties were corrupt/extremely corrupt. That figure was 74% for parliament and 86% for the police force. U.S. firms do not tend to cite corruption as an obstacle to foreign investment, nor has the Embassy seen evidence of disproportionate application of corruption measures against foreign investors.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Jamaica has ratified major international corruption instruments, including the Inter-American Convention Against Corruption and the United Nations Convention Against Corruption. Jamaica is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

Major Organised Crime and Anti-Corruption Agency (MOCA)
24hr Hotline: 1-800-CORRUPT (1-800-267-7878)
Email: info@moca.gov.jm

National Integrity Action
Phone: +1 876 906 4371/ Fax: 876-754-7951
Email: info@nationalintegrityaction.org
Website: <http://niajamaica.org>

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Jamaica has a Bilateral Investment Treaty with the United States. According to the OAS Foreign Trade Information System, Jamaica has also signed bilateral investment treaties with Argentina, China, Egypt, France, Germany, Indonesia, Italy, Netherlands, Nigeria, Spain, Switzerland, United Kingdom, and Zimbabwe. Jamaica signed a bilateral Income Tax Convention with the U.S. in 1981, which seeks to avoid double taxation while preventing income tax evasion. Jamaica also has double taxation agreements with Canada, CARICOM, China, Denmark, France, Germany, Norway, Sweden, Switzerland, and the United Kingdom. Jamaica has not signed a Free Trade Agreement (FTA) with the U.S., but CARICOM signed a Trade and Investment Framework (TIFA) with the U.S. in 2013. In 2014 Jamaica and the U.S. signed an inter-government agreement for reciprocal information sharing as part of the implementation of the U.S. Foreign Account Tax Compliance Act (FATCA).

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Jamaica has about 130 free zone entities operating in areas such as business process outsourcing (BPO); warehousing and distribution; manufacturing; and, merchandising. However, following the passage of a new Special Economic Zone Act, existing free zone entities will have a four year period to transition to the new regime. The old legislation allowed investors to operate solely with foreign exchange in activities such as warehousing, refining, manufacturing, redistribution, processing, assembling, packaging, and services, including insurance and banking. Incentives offered include a 100 percent tax holiday in perpetuity, no import licensing requirements, and exemption from customs duties on construction and raw materials, capital goods, and office equipment. Manufacturing companies operating in the Free Zones are allowed to sell 15 percent of their production on the local market with the approval of the responsible minister.

Duty-free zones are primarily found in airports, hotels, and tourist centers and, as with free zone activities, do not discriminate on the basis of nationality. The Kingston and Montego Bay Free Zones provide factory space for the above listed activities. Amendments have also been made to the Export Free Zones Act to allow for the establishment of Single Entity Free Zones, with individual companies now designated as free zones. The Kingston Free Zone has an Informatics Park. Free trade zone contact information is available to potential investors upon request.

The government intends to transition the operation of free zones to special economic zones (SEZs) by the end of 2016 to comply with WTO rules for middle-income countries under the WTO Agreement on Export Subsidies and Countervailing Measures. A proposed model is outlined in a Green Paper on Special Economic Zones but is still subject to legislative

review. <http://www.japarliament.gov.jm/attachments/article/341/The%20Special%20Economic%20Zones%20Act,%202016%20No.%207.pdf>

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

Economic Data	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2014	\$14B	2014	\$13.89B	www.worldbank.org/en/country
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	\$199M	BEA data
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	2014	\$3M	BEA data
Total inbound stock of FDI as % host GDP	N/A	N/A	2014	5.0%	N/A

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	\$551M	100%	Total Outward	-\$2M	100%
(per UNCTAD – not disaggregated by country)					
"0" reflects amounts rounded to +/- USD 500,000.					

Table 4: Sources of Portfolio Investment

Data not available.

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:

common law system based on the English model

International organization participation:

ACP, AOSIS, C, Caricom, CDB, CELAC, FAO, G-15, G-77, IADB, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, Interpol, IOC, IOM, ISO, ITSO, ITU, LAES, MIGA, NAM, OAS, OPANAL, OPCW, Petrocaribe, UN, UNCTAD, UNESCO, UNIDO, UNITAR, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

There are no exchange controls in Jamaica at this time.

Treaty and non-treaty withholding tax rates

Jamaica has signed **29 agreements** (**22 DTC** and **7 TIEA** agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Antigua and Barbuda	DTC	6 Jul 1994	30 Nov 1994	No	No	
Barbados	DTC	6 Jul 1994	30 Nov 1994	No	No	
Belize	DTC	6 Jul 1994	30 Nov 1994	No	No	
Canada	DTC	30 Mar 1978	2 Apr 1981	No	No	
China	DTC	4 Jul 1996	16 Mar 1997	No	No	
Denmark	DTC	16 Aug 1990	10 Oct 1991	No	No	
Denmark	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
Dominica	DTC	6 Jul 1994	30 Nov 1994	No	No	
Faroe Islands	TIEA	4 Dec 2012	not yet in force	Unreviewed	Yes	
Finland	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
France	DTC	9 Aug 1995	21 May 1998	No	No	
Germany	DTC	8 Oct 1974	13 Sep 1976	No	No	
Greenland	TIEA	4 Dec 2012	not yet in force	Unreviewed	Yes	
Grenada	DTC	6 Jul 1994	30 Nov 1994	No	No	
Guyana	DTC	6 Jul 1994	30 Nov 1994	No	No	
Iceland	TIEA	4 Dec 2012	not yet in force	Yes	Yes	
Israel	DTC	29 Jun 1984	13 Sep 1985	No	No	
Macao, China	TIEA	5 Oct 2012	not yet in force	Yes	Yes	
Norway	DTC	30 Sep 1991	2 Nov 1992	No	No	
Norway	DTC Protocol	4 Dec 2012	not yet in force	Yes	Yes	
Saint Kitts and Nevis	DTC	6 Jul 1994	30 Nov 1994	No	No	
Saint Lucia	DTC	6 Jul 1994	30 Nov 1994	No	No	
Saint Vincent and the Grenadines	DTC	6 Jul 1994	30 Nov 1994	No	No	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Spain	DTC	8 Jul 2008	16 May 2009	Yes	Yes	
Sweden	DTC	13 Mar 1985	7 Apr 1986	No	No	
Sweden	DTC Protocol	4 Dec 2012	not yet in force	Yes	Yes	
Switzerland	DTC	6 Dec 1994	27 Dec 1995	No	No	
Trinidad and Tobago	DTC	6 Jul 1994	30 Nov 1994	No	No	
United Kingdom	DTC	16 Mar 1973	31 Dec 1973	No	No	
United States	DTC	21 Dec 1980	29 Dec 1981	No	No	
United States	TIEA	18 Dec 2003	18 Dec 2003	Yes	Yes	

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
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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