Swaziland

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Swaziland	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

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

Industries:

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

Exports - commodities:

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

Imports - commodities:

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

Investment Restrictions:

Foreign investors are theoretically free to invest in all sectors of the Swazi economy, aside from sectors controlled by Swazi parastatals, such as water services. Other areas in which the Swazi government disallows investment are in the manufacturing of arms, chemical and biological weapons, radioactive materials, explosives, and manufacturing involving hazardous waste treatment or disposal.

Contents

Section 1 - Background

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

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

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

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Swaziland was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Swaziland was deemed Compliant for 1 and Largely Compliant for 0 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

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

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

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

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

US Department of State Money Laundering assessment (INCSR)

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

Key Findings from the report are as follows: -

Perceived Risks:

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

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

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

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: List approach
Are legal persons covered: criminally: YES civilly: YES

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

REPORTING REQUIREMENTS:
Number of STRs received and time frame: 50 in 2015
Number of CTRs received and time frame: Not applicable

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

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 3 in 2015
Convictions: 3 in 2015

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: NO
With other governments/jurisdictions: YES

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

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

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

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

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

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

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

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

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

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

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

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

EU White list of Equivalent Jurisdictions

Swaziland is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Swaziland is not considered to be an Offshore Financial Centre

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

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

Swaziland is a source, destination, and transit country for men, women, and children subjected to sex trafficking and forced labor. Swazi girls, particularly orphans, are subjected to sex trafficking and domestic servitude, primarily in Swaziland and South Africa. The HIV/AIDS pandemic has contributed immensely to the increasing number of orphans and other vulnerable children at risk of exploitation through trafficking. Swazi chiefs coerce children and adults—through threats and intimidation—to work for the king. Swazi boys and foreign children are forced to labor in commercial agriculture, including cattle herding, and market vending within the country. Mozambican boys migrate to Swaziland for work washing cars, herding livestock, and portering; some of these boys become victims of forced labor. Traffickers use Swaziland as a transit country to transport foreign victims to South Africa for forced labor. Traffickers reportedly force Mozambican women into prostitution in Swaziland, or transit Swaziland en route to South Africa. Some Swazi women are forced into prostitution in South Africa and Mozambique after voluntarily migrating in search of work. Reports suggest labor brokers fraudulently recruit and charge excessive fees to Swazi nationals for work in South African mines—means often used to facilitate trafficking crimes. Swazi men in border communities are recruited for forced labor in South Africa's timber industry. Reports indicate a recent downturn in the textile industry has led textile workers to follow promises of employment in neighboring countries, potentially increasing their vulnerability to trafficking.

The Government of Swaziland does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In collaboration with the Southern African Development Community and an international organization, the government launched victim identification guidelines, completed in the previous reporting period, and a national referral mechanism, finalized in 2015. The government piloted a data collection and reporting system developed by an international organization to guide victim assistance and investigations. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Swaziland is placed on Tier 2 Watch List. During the year, the government investigated two suspected trafficking cases, in comparison to nine the previous year, and did not prosecute or convict any suspected traffickers during the reporting period. The government has not yet convicted a trafficker under its anti-trafficking act, in effect since 2010. The government continued to assist victims with basic necessities such as food, clothing, shelter, toiletries, counseling, and medical care in collaboration with NGOs. Nonetheless, the limited availability of space in NGO-run shelters remained a significant concern, and the government neglected victims of internal trafficking as it predominantly focused on cross-border trafficking. The anti-trafficking taskforce and its secretariat continued to guide national anti-trafficking efforts and maintained awareness-raising efforts; however, inadequate financial and in-kind support for their work stymied the effectiveness of national anti-trafficking efforts.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	39
World Governance Indicator – Control of Corruption	39

Corruption and Government Transparency - Report by US State Department

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

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

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

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

Section 3 - Economy

Surrounded by South Africa, except for a short border with Mozambique, Swaziland depends on South Africa for 60% of its exports and for more than 90% of its imports. Swaziland's currency is pegged to the South African rand, effectively relinquishing Swaziland's monetary policy to South Africa. The government is heavily dependent on customs duties from the Southern African Customs Union (SACU), and worker remittances from South Africa supplement domestically earned income. Swaziland's GDP per capita makes it a lower middle income country, but its income distribution is highly skewed, with an estimated 20% of the population controlling 80% of the nation's wealth. As of 2014, more than one-quarter of the adult population was infected by HIV/AIDS; Swaziland has the world's highest HIV prevalence rate.

Subsistence agriculture employs approximately 70% of the population. The manufacturing sector diversified in the 1980s and 1990s, but manufacturing has grown little in the last decade. Sugar and wood pulp had been major foreign exchange earners until the wood pulp producer closed in January 2010, and sugar is now the main export earner. Mining has declined in importance in recent years. Coal, gold, diamond, and quarry stone mines are small scale, and the only iron ore mine closed in 2014.

With an estimated 40% unemployment rate, Swaziland's need to increase the number and size of small and medium enterprises and to attract foreign direct investment is acute. Overgrazing, soil depletion, drought, and floods are persistent problems. On 1 January 2015, Swaziland lost its eligibility for benefits under the US African Growth and Opportunity Act, resulting in the loss of thousands of jobs.

The IMF forecasted that Swaziland's economy will grow at a slower pace in 2016/2017 because of a region-wide drought, which is likely to hurt Swaziland's revenue from sugar exports and other agricultural products, and a decline in the tourism and transport sectors. Swaziland's revenue from SACU receipts and remittances from Swazi citizens abroad will also decline in 2016/2017, making it harder to maintain fiscal balance.

Agriculture - products:

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

Industries:

coal, forestry, sugar, soft drink concentrates, textiles and apparel

Exports - commodities:

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

Imports - commodities:

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

Banking

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

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

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

Stock Exchange

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

Section 4 - Investment Climate

Executive Summary

Swaziland is a landlocked kingdom located in Southern Africa. Swaziland's investment climate has become less conducive to U.S. investment due to increased government entanglement, corruption, and the higher costs involved with doing business. The official policy is to encourage foreign investment as a means to drive economic growth, but the pace of reforming investment policies is slow. In 2012, Swaziland re-launched its 2005 Investor Roadmap aiming to improve the country's competitiveness. The roadmap details procedural, administrative and regulatory barriers that hinder investment in the country and recommends regulatory reforms. Most of the identified reforms remain unaddressed. The implementation of the re-launch of the Investor Roadmap in 2012 is slowly progressing. The Swaziland Investment Promotion Authority (SIPA) advocates for foreign investors and facilitates regulatory approval, but lacks the political clout necessary to prevent unsolicited government and royal family interference in private business affairs. Recent positive developments include allowing for company registration online and amending the immigration laws to make it easier for foreign workers to remain in the country.

The Swaziland government has prioritized the energy sector, including particularly the renewable energy sector, and has developed a Grid Code and Independent Power Producer (IPP) Policy to create a transparent regulatory regime in this industry and attract investment. Swaziland imports 80 percent of its power from South Africa and Mozambique. With both South Africa and Mozambique experiencing electricity shortages, Swaziland is working on producing its own energy using renewable energy. Information, Communications and Technology (ICT) is also an emerging sector. Swaziland has embarked on a number of initiatives to spur the growth of this key sector such as e-governance and the construction of the Royal Science and Technology Park. The digital migration program of the Southern African Development Community (SADC) presents ICT opportunities in the country.

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

Increasingly, however, the government of Swaziland (GOS) is competing with the private sector through state owned enterprises (SOEs) or companies owned by the royal family. SOEs and the royal family’s private trust are invested in many industries and distort the economy through their influence. Virtually all large-scale investments in Swaziland involve, either by law or by custom, the participation of the government and the royal family as a partner. Public sector and royal family involvement in the economy discourages private investment and encourages monopolistic behavior, driving up prices and reducing competitiveness of the country. In addition, Swaziland’s land tenure system, where the majority of usable land remains the property of the King “in trust for the Swazi nation,” discourages long-term investment in commercial real estate and agriculture.

Swaziland's poor human rights and labor rights record has jeopardized its access to export markets and to donor support. In 2015, Swaziland lost its duty free access to the U.S. market under the African Growth and Opportunity Act (AGOA) due to continued infringements on internationally recognized workers' rights. Swaziland also remains ineligible for Millennium Challenge Corporation (MCC) support due to its poor rankings on political and civil liberties by international non-governmental organizations.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	69 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	105 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	(2015) 123 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2015	USD Amount	BEA/Host government
World Bank GNI per capita	2013	USD3,550 (2014)	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) or USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	69 of 175	transparency.org/cpi2014/results

World Bank's Doing Business Report "Ease of Doing Business"	2015	110 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	127 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 2,990	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

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1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The GOS regards foreign direct investment as a means to drive the country's economic growth, obtain access to foreign markets for its exports, and improve international competitiveness. However, the government and the royal family also exercise considerable influence in the private sector through SOEs that compete with private companies and through the government and the royal family's substantial shareholding in private corporations. All business sectors are open to foreign investment although government approval is needed. The Swaziland Investment Promotion Authority (SIPA) is charged with designing and implementing strategies for attracting desired foreign investors. SIPA is currently functional and helpful but it is not yet a one-stop-shop for foreign investors. The Swaziland Government continues its attempts to facilitate the ease of doing business in the country, but the pace of improvement has failed to keep up with other countries in the region. Foreign investors are confused by Swaziland's dual system of governance where approval is often required by traditional authorities as well as the various government ministries.

In general, there are no laws that discriminate against foreign investors. However, in practice most successful foreign investments require local partners - often the government or the royal family - to navigate the complex bureaucracy of the country. In addition, the majority of the land is owned by the king in trust for the Swazi nation and cannot be purchased by foreign investors. Foreign investors that require significant land for the enterprise therefore must engage the king directly in business negotiations. The mining sector mandates this practice by statute. The Mines and Minerals Act of 2011 stipulates that the king will acquire 25 percent of shareholding without any monetary consideration and another 25 percent shareholding in any mining enterprise will be allocated to the government. Mining companies are also expected to pay rent for the area where company mining is going on to the head of state. The Swaziland Government recognizes the significant potential of gold, iron ore, diamonds and coal and is placing renewed emphasis on the sector and is seeking foreign investors.

Other Investment Policy Reviews

Swaziland has been a World Trade Organization (WTO) member since 1995. There has been no investment policy review conducted by UNCTAD, WTO, or OECD. The GOS is continuing to work with the United States Agency for International Development (USAID) Southern African Trade Hub in reviewing and implementing the recommendations of the Swaziland Investor Roadmap, which can be found at pdf.usaid.gov/pdf_docs/Pnadw920.pdf.

Laws/Regulations of Foreign Direct Investment

Swaziland's legal and regulatory environment is underdeveloped, opaque, and unpredictable. But there are no efforts to restrict foreign investment by industry standards-setting organizations. The Competition Law of 2007 stipulates anti-competitive trade practices, requirements for mergers and acquisitions and protecting consumer welfare, and provides for an institutional mechanism for implementing these objectives. The country's Economic Recovery Strategy identifies the need to promote reforms in order to facilitate investment. The executive regularly interferes in court administration, case allocations, and judicial decisions. In cases involving the government or royal family, investors are unlikely to receive a fair hearing. However, the courts independently rule on purely private business disputes.

The Swaziland Investment Promotion Authority (SIPA) helps navigate the laws, rules, procedures and registration requirements for foreign investors. SIPA's website is: www.sipa.org.sz/

Investors can access registration forms for their companies on this website.

Business Registration

A company must reserve a unique name for itself through the Registrar of Companies at the Ministry of Commerce. The company must pay a reservation of name fee to the Swaziland Revenue Authority (SRA) and obtain a tax clearance from the SRA. The process of registering a company takes approximately 10 days. SIPA is the agency that facilitates foreign investment and it is open to all investors.

Microenterprises are those employing up to 3 people with a capital investment up to E50,000 (US$3,170) and a turnover of up to E60,000 (US$3,800). Small enterprises are those employing 4 to 10 people with a capital investment from E50,000 to E2 million (US$3,170 to 127,000) and a turnover of up to E3 million (US$190,000). Medium enterprises are those employing 11 to 50 people with a capital investment from E2 million to E5 million (US$127,000 to $317,000) and a turnover of up to E8 million (US$507,000).

Industrial Promotion

Other than the facilitation assistance provided by SIPA, there are no official government programs to attract investment.

Energy and Mining and Information Communications and Technology are two areas that the GOS is currently promoting.

Limits on Foreign Control and Right to Private Ownership and Establishment

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

The only industries that have limits on foreign control are mining and real estate. According to the Mines and Minerals Act of 2011, in any mining company the king acquires 25 percent of shareholding without any monetary consideration and another 25 percent shareholding is allocated to the government. Foreigners cannot own the majority of the country's land as it remains in trust for the Swazi nation and the King and chiefs have control over its use and allocation.

Privatization Program

The International Monetary Fund (IMF) has advised the Swaziland government to privatize SOEs, particularly in the telecommunications sector and the electricity sector. In response, the Swaziland Government passed several laws, but privatization efforts remain slow. The Swaziland Communications Commission Act and the Electronic Communications Act came into effect on July 31, 2013. The Swaziland Communications Act establishes a Commission to regulate and supervise the operation of electronic communications networks and the provision of electronic communications services in the country, including the regulation of data protection in electronic communications. The SOE, Swaziland Posts and Telecommunications Corporation (SPTC), besides being the provider of the service, was also the regulator. The Act now transfers the regulatory powers from SPTC to the Commission.

The Swaziland government is also working on producing its own electricity using renewable energy. Swaziland imports the bulk of its electricity from South Africa (80 percent) and approximately 10 percent from Mozambique. With both countries experiencing electricity shortages, Swaziland is working on producing its own energy using renewable energy. The government has developed a Renewable Energy and Independent Power Producer (RE&IPP) Policy with the help of USAID's Southern Africa Trade Hub with the hope of incentivizing investors in this sector.

The Swaziland Energy Regulatory Authority regulates the sector, screening investors interested in establishing power generation facilities.

Screening of FDI

Any company wishing to invest in Swaziland must adopt articles of incorporation governed by the laws of Swaziland. Investors are screened for credit worthiness, business ethics, and criminal records. Foreign direct investment in manufacturing may need an environmental impact assessment. Investors complain about the amount of time the screening process takes and the cost involved.

U.S. companies have complained about the approval process with the Central Bank of Swaziland for capital transfers. While the law allows repatriation of profits, there have been instances where the regulatory approval process took a significant amount of time and effort.

With the implementation of the Swaziland Investor Roadmap 2005 that was re-launched in 2012, SIPA coordinates the screening of foreign investors. The Ministry of Commerce screens trading licenses, Registrar of Companies handles registration, and entry/work permits for investors are handled by immigration. The Central Bank of Swaziland reviews applications for offshore investment by companies registered in Swaziland. The reviewing authorities are generally found to be transparent. However, the various government ministries are not always responsive to investor inquiries and, therefore, SIPA must be heavily involved in this process.

The general purpose of the screening is for the government to manage risk associated with unknown foreign investors and to encourage domestic employment. According to the Companies Act of 2009, any person, company or other corporate body, aggrieved by any decision, ruling or order of the Registrar of Companies may bring the matter under review by the High Court.

At minimum, a foreign investor must supply the following documents for screening:

- Certified copies of the Directors' passports or ID documents;
- Residential address from the country of origin of the applicant;
- Bank account details;
- Police Clearance - An original copy has to be obtained from the country of origin and it must be less than six months old;
- Two color passport sized photos;
- Certificate of Incorporation and Memorandum and Articles of Association;
- Lease Agreement.

The requirement of a lease agreement can be problematic if a lease has not been signed pending the registration of the company. Companies have avoided this by having a condition subjecting its enforceability to the company registration.

Competition Law

The Swaziland Competition Commission reviews investment and its effect on specific industries, the effect on employment, and the ability of small businesses to be competitive. All mergers and acquisitions are subject to screening and approval by the Swaziland Competition Commission.

2. Conversion and Transfer Policies

Foreign Exchange

There are no limitations on the inflow or outflow of funds for remittances. Dividends derived from current trading profits are freely transferable on submission of documentation (including latest annual financial statements of the company concerned) to the Central Bank of Swaziland, subject to provision for the non-resident shareholders tax of 15 percent. Local credit facilities may not be utilized for paying dividends.

All capital transfers into Swaziland from outside the Common Monetary Area (CMA) require prior approval of the Central Bank of Swaziland to avoid problems in the subsequent repatriation of interest, dividends, profits and other income accrued. Otherwise there are no restrictions placed on the transfers. However, some investors have indicated that the Central Bank requests documentation not required by their own policies or regulations in order to approve these capital transfers and this has deterred some investors from proceeding.

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

The Lilangeni is pegged at par with the South African Rand and exchange rates are thus determined according to the Rand and the monetary policy of South Africa.

Remittance Policies

The average delay period in remitting investments is dependent on the mode of remitting funds. SWIFT transfers average a week, while other electronic transfers typically take less than a week.

If all required documents are submitted, remittances in Swaziland do not exceed 60 days. The Swaziland Government does not issue dollar-denominated bonds. Otherwise there are no limitations on the inflow and outflow of funds for remittances of profits or revenue. Swaziland's currency is linked to the South African Rand, so it has little ability to manipulate its currency.

Swaziland is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the assessment of the implementation of anti-money laundering and counter-terrorist financing (AML/CFT) measures in Swaziland was conducted by ESAAMLG.

3. Expropriation and Compensation

The law prohibits expropriation and nationalization. There have been no known cases of foreign owned business being expropriated. Swaziland's land tenure system can be confusing for foreign investors. Approximately sixty percent of land is Swazi Nation Land (SNL), which is held by the monarchy in trust for the people of Swaziland. Control of SNL is delegated to local chiefs. Settlement of disputes regarding traditionally held land could take years. There are reported cases of land disputes between foreign businesses operating on

Swazi Nation Land and traditional authorities. However, since the right of ownership on SNL remains with the King, any rights are temporary and thus their involuntary relinquishment is not technically expropriation.

In 2010, there was a dispute on a 99-year lease on Swazi Nation Land with a company developing a tourist business in the southern part of Swaziland bordering South Africa. The disputed facility was a lodge and was supposed to be a trans-frontier park between Swaziland and South Africa housing wildlife. In 2010, the King tried to revoke the 99-year lease agreement with the foreign investor. The owners of the facility applied to the High Court, but a settlement was never reached because the King has constitutional immunity from lawsuits. The investors complained of their multi-million dollar investment loss.

Similarly, in 2014, a dispute emerged involving a foreign investor in the iron ore mining business. The foreign investor complained he was driven out of the country by the King's advisors and accused the government and king of destroying the business to avoid repaying a loan the company had provided to the king. The mining business closed after only three years in operation and the company complained that they lost tens of millions of USD in investment and lost earnings. The mining sector is considered high risk due to the required allocation of 25 percent of the shareholding of a mining company to the king and another 25 percent to the government.

The GOS has shown no pattern of discrimination against U.S. persons.

4. Dispute Settlement

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

Swaziland has a dual legal system consisting of a set of courts that follow Roman-Dutch law and a set of national courts that follow Swazi law and customs. This parallel system can be confusing and has presented problems for foreign-owned businesses. Swaziland’s western-style courts do enforce property rights. The legal system has a western-style court system to enforce contracts and the industrial court hears industrial relations matters.

The country has various laws governing commercial or contractual laws. The Industrial Relations Act of 2000 created the Conciliation, Mediation and Arbitration Commission (CMAC) to resolve employer-employee disputes. The Company Act of 2009, which outlines commercial law; the Competition Act of 2007, which screens and approves mergers and acquisitions; and the Standards Act of 2003, which promotes quality principles and facilitates the use of standards to reduce technical barriers to trade and investment.

The majority of investor disputes are employee-related and resolved in arbitration or the courts.

Bankruptcy

The Insolvency Act of 1955 is the law that governs bankruptcy in Swaziland. The insolvent debtor or his agent petitions the court for the acceptance of the surrender of the debtor's estate for the benefit of his creditors. Creditors need to petition with the court and provide documents supporting their claim.

Bankruptcy is only criminalized if the debtor, trustee or sole owner does not comply with the requirements of the Master or the creditor. For example, if he/she fails to submit documents, declare assets, or if he/she obstructs or hinders a liquidator appointed under the Act in the performance of his functions, then he/she could be found guilty of an offence.

In the World Bank's 2015 “Doing Business Report", Swaziland's ranking in the category of Ease of Resolving Insolvency dropped to 80 from 77 the previous year, out of 189 economies.

Investment Disputes

Investment disputes are not common in Swaziland. The GOS accepts international arbitration of investment disputes between foreign investors and the state. Any agreement with international investors/companies can include an enforceable clause stating where arbitration will take place and which laws will apply. Swaziland does not have a domestic arbitration body for investment disputes between companies. Swaziland is a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention) and the Multilateral Investment Guarantee Agency (MIGA).

There have been at least two major investment disputes involving foreign investors in the past ten years but none involving U.S. citizens.

The few disputes that have arisen involve a pattern of companies that are partly owned by the King and GOS investing in natural resources. The pattern is that after a few years of operation or development, the foreign investors are required to relinquish their claims to ownership of the resources under non-transparent threats against them. Domestic civil society has been virtually silent with a few exceptions.

International Arbitration

The GOS accepts international arbitration.

Swaziland, as a member of the Southern African Customs Union (SACU), in 2008 signed a Trade, Investment and Development Cooperative Agreement (TIDCA). There are no claims under this agreement.

Swaziland has a dual legal system consisting of Roman-Dutch law and Swazi law and customs. In addition to a Western-style court system, Swazi traditional courts run parallel, which can be confusing for foreign-owned businesses. These traditional courts, in which the king is supreme authority, are available for dispute settlement. Such disputes, however, can be transferred to the formal court system at the option of the foreign investor.

The Conciliation, Mediation and Arbitration Commission (CMAC), which is governed by the Industrial Relations Act of 2000, resolves employer-employee disputes.

ICSID Convention and New York Convention

Swaziland is a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention).

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

Swaziland is not a signatory to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

Duration of Dispute Resolution

Due to the dual legal system, it is difficult to approximate the duration of dispute resolutions in Swaziland. If the traditional structures are involved, as they would be in the case of natural resources or land investments, the dispute may take several years to be resolved.

General contract disputes may take up to one year to resolve in the Industrial Court, depending on the level of complexity. Anti-trust cases are relatively new but have taken several years to reach resolution. Due to the existence of the Conciliation, Mediation, and Arbitration Commission (CMAC) for labor disputes, employer-employee disputes are generally resolved within a few months.

Political interference is the most significant problem in local courts. Parties attempt to extend the King's constitutional immunity to all lawsuits in which his companies are an investor. The local legal profession lacks sufficient ethical standards.

In general the Swazi legal system has effectively enforced court decisions and international arbitration awards. Judgments of foreign courts are accepted and enforced. Swaziland is not a signatory of the New York Convention but ICSD membership binds the country to enforce international arbitration awards generated in that venue.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The GOS has not notified the WTO of any measures that are not in compliance with its Trade Related Investment Measures commitments.

Investment Incentives

Swaziland has a human resources training rebate - a rebate of 150 percent of the cost is written against tax for training. At the discretion of the Minister of Finance, the Swazi government applies a reduced tax rate of 10 percent for the first ten-year period of operation, available for businesses that qualify under the Development Approval Order. Capital goods imported into the country for productive investments are exempt from import duties. Raw materials imported into the country to manufacture products to be exported outside the SACU area are also exempt from import duties. The law allows for repatriation of profits and dividends including salaries for expatriate staff and capital repayments. The Central Bank of Swaziland guarantees loans raised by investors for the export markets. There is also provision of loss cover which a company can carry over in case it incurs a loss in the year of assessment.

Research and Development

The law is silent on research and development programs.

Performance Requirements

The Ministry of Labor and Social Security requires the hiring of qualified Swazi workers where possible, even at executive positions. Foreign investors are required to apply for residence and work permits. Although they are generally awarded, business people complain that the process is cumbersome. SIPA is now supervising the application of these permits for incoming foreign businesses as part of the implementation of the Investor Roadmap.

There are no government-imposed conditions on permission to invest, including tariff and non-tariff barriers. In the manufacturing sector if a company plans to label a product to export as made in Swaziland, the government requires that the local content of such export be at least 25 percent. These requirements are applied systematically.

Data Storage

The government does not follow a forced localization policy. There are no requirements for foreign IT providers to turn over source code and/or provide access to surveillance (backdoors into hardware and software or turn over keys for encryption). The technology industry in Swaziland is still in its infancy.

6. Protection of Property Rights

Real Property

For titled property, the Swaziland Government recognizes and enforces secured interest in property and there is a reliable system of recording security interests. Most land is the country is referred to as Swazi Nation Land and is governed by the traditional structures overseen by the king. Swazi Nation Land rests with the king who appoints chiefs to oversee the use of it. The Constitution of the country protects the right to own property, but most Swazis reside on Swazi Nation Land that is not covered by this constitutional protection. The law allows for eminent domain but requires compensation. The compensation is not forthcoming in all cases.

Sixty percent of land does not have clear title. The chiefs keep their own records of who owns what land.

The World's Bank ease of registering property refers to property in urban areas where there are titles for land. Swazi Nation Land is not titled and even lending institutions are reluctant to use it as collateral. Lending institutions can only give a loan for development on non-titled land if the borrower has titled land as collateral.

Intellectual Property Rights

Protection for patents, trademarks and copyrights is currently inadequate under Swazi law. Patents are currently protected under a 1936 act that automatically extends patent protection, upon proper application, to products that have been patented in either South Africa or Great Britain. Trademark protection is addressed in the 1981 Trademarks Act. Copyright protections are addressed under four statues, dated 1912, 1918, 1933 and 1936.

There are bills that are pending that amend the Copyright Act of 1912, and the Trademarks Act of 1981. The Copyright and Neighboring Rights Bill of 2014 will change Swaziland's intellectual property law. The new law would protect literary, musical, artistic, audio-visual, sound recordings, broadcasts and published editions. It also criminalizes illicit recording and false representation of someone else's work. The Act also gives the duration of copyright among other things. The Swaziland Intellectual Property Tribunal Bill of 2015 will establish the Intellectual Property Tribunal, which will be responsible for hearing all matters and disputes involving intellectual property in Swaziland.

The Trademarks (Amendment) Bill of 2015 will amend the Trademarks Act of 1981 and bring it into compliance with provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), the Madrid Agreement concerning International Registration of Marks, and the Banjul Protocol on Trademarks.

None of these proposed amendments have yet been passed into law.

Swaziland does not track and report on seizures of counterfeit goods.

Swaziland is not listed in USTR's Special 301 report.

Swaziland is not listed in the notorious market report.

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/. Swaziland joined WIPO in 1988. Until the bills on Intellectual Property go through parliament the current information is up to date.

Resources for Rights Holders

Contact at Mission:

Jessica Panchatha
Political/Economic Officer
+268 2417-9000
panchathaje@state.gov

A list of local lawyers is available at: http://swaziland.usembassy.gov/attorneys.html.

7. Transparency of the Regulatory System

In general, the laws of the country are transparent. However, the application of the laws is inconsistent. The Competition Act came into force in 2007 and the Competition Commission Regulations came into effect in 2010. All of the regulations are publicly available.

There are no regulatory processes managed by nongovernmental organizations or private sector associations. Foreign investors coming into the country can join the Federation of Swaziland Employers and Chamber of Commerce on an equal basis with nationals of the country. This association is the link between the private sector and government.

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

International accounting firms have branches in the country, e.g., KPMG and PricewaterhouseCoopers (PwC). But the legal and regulatory environment is underdeveloped, opaque and unpredictable. For instance, Swaziland does not have an approved trade policy, investment policy, or industrial policy.

8. Efficient Capital Markets and Portfolio Investment

Swaziland's capital markets are closely tied to those of South Africa and operate under conditions generally similar to the conditions in that market. In 2010, the GOS enacted the Securities Act to strengthen the regulation of portfolio investments. The Act was primarily intended to facilitate and develop an orderly, fair, and efficient capital market in the country.

Swaziland has a small stock exchange with only six companies currently trading. In 2010, the Financial Services Regulatory Authority (FSRA) was established. This institution governs non-bank financial institutions including capital markets, insurance firms, retirement funds, building societies, micro-finance institutions, and savings and credit cooperatives. The royal wealth fund and national pension fund invest in the private equity market, but there are otherwise few professional investors.

Existing policies neither inhibit nor facilitate the free flow of financial resources. The demand is simply not present. The Central Bank respects International Monetary Fund (IMF) Article VIII.

Credit is allocated on market terms. The Central Bank of Swaziland guarantees loans for the export market and for small businesses.

Money and Banking System, Hostile Takeovers

Swaziland's banks are primarily subsidiaries of South African banks. Standard Bank is the largest bank by capital assets and employs about 400 workers. Swaziland has a central bank system. The Central Bank's prior approval is necessary for all capital transfers into Swaziland from outside the Common Monetary Area (CMA) to avoid problems in the subsequent repatriation of interest, dividends, profits, and other income accrued. Hostile takeovers are uncommon.

9. Competition from State-Owned Enterprises

SOEs are active in Information and Communication Technology, Energy and Mining, and Environmental Technologies. Under the Ministry of Finance, Public Enterprise Unit athttp://www.gov.sz, there is a list of SOEs. The Swaziland Government defines SOEs as private enterprises. They are separated into categories. Category A represents SOEs that are wholly owned by government. Category B represents SOEs in which government has a minority interest or which monitor other financial institutions or a local government authority. These categories are further broken down to profit-making SOEs with a social responsibility focus; those that are profit-making and developmental; those that are regulatory; and those that are regulatory but developmental. SOEs are normally monopolies. For example, the power utility is an SOE and is a monopoly. The private sector (non-SOE) is the main contributor to research and development. SOEs purchase and supply goods and services to and from the private sector including foreign firms. Since SOEs in Swaziland are usually monopolies, the private sector cannot compete. SOEs where the government is a major shareholder and has a controlling position are not subjected to the same tax burden. But those in which government is a minority shareholder are subject to the same tax burden and tax rebate policies as the private sector. SOEs have preferential access to Swazi Nation Land. The Public Enterprise Act governs SOEs. The Boards of SOEs review the budget before tabling it to the line ministry, which, in turn, tables it to parliament where it is scrutinized by the public accounts committee.

Swaziland is not party to the Government Procurement Agreement (GPA) of the World Trade Organization.

OECD Guidelines on Corporate Governance of SOEs

SOEs' senior managers report to the board and in turn the board reports to a line minister. The minister then works with the Standing Committee on Public Enterprise (SCOPE), which is composed of cabinet ministers. SOEs are governed by the Public Enterprises Act, which requires audits of the SOEs and public annual reports. SOEs generally practice the OECD Guidelines and Corporate Governance of SOEs in Swaziland. Government is not involved in the day-to-day management of SOEs. Boards of SOEs exercise their independence and responsibility. The Public Enterprise Unit provides regular monitoring of SOEs. SOEs submit yearly reports and financial statements to parliament. Senior SOE management reports to an independent board of directors who then report to a line minister. The line minister of the SOE appoints the board. In some cases, the allocation is politically motivated. In some cases, the king appoints his own representative as well. Generally, court processes are nondiscriminatory in relation to SOEs.

Sovereign Wealth Funds

In 1968 the late King Sobhuza II created a Royal Charter that governs the only Sovereign Wealth Fund (SWF), Tibiyo Taka Ngwane. This fund is not subject to government or parliamentary oversight and does not provide information on assets or financial performance to the public. Tibiyo Taka Ngwane publishes an annual report, but it is not required by law to do so. Similarly the SWF obtains independent audits at its own discretion.

Tibiyo Taka Ngwane says in its objectives that it supports the government in fostering economic independence and self-sufficiency. The SWF widely invests in the economy and holds shares in most major industries, e.g., sugar, commercial real estate, beverages, dairy, hotels, and transportation. For their social responsibility practices they pay scholarships for students. They do not have any legal obligations other than the vague language of investing in assets in trust for the Swazi nation. Tibiyo is run as a private equity investment fund for the benefit of the King and the royal family. The SWF and the government co-invest to exercise majority control in many instances.

Government departments do not engage in commercial activity that has an adverse commercial impact on U.S. firms. The SWF is an entity managed by a board of directors, which is appointed by the king. Tibiyo Taka Ngwane invests entirely in the local economy and local subsidiaries of foreign companies. Tibiyo has shares in a number of private companies. Sometimes foreign companies can form relationships with Tibiyo, especially if the foreign company wants to raise capital and can manage the project on its own.

The government does not have jurisdiction over the SWF, which is subject only to the King's approval. The SWF usually plays a passive role. In some companies the Chief Executive Officer of the SWF sits on the board of the private company.

10. Responsible Business Conduct

Multinational enterprises in the country have robust standards for responsible business conduct (RBC) and consumers often recognize their efforts. However, smaller domestic companies are less likely to have RBC programs. The Development Approval Order which is part of the Income Tax law allows a company to apply to the minister of finance if it plans to make significant RBC investments to receive a reduced tax rate of up to 10 percent. Government enforcement is sporadic but generally does not vary based on whether a company is domestic or foreign. Requirements are not waived to attract foreign investment. The government does not have corporate governance, accounting, and executive compensation standards to protect shareholders. There are no independent NGOs monitoring RBC.

OECD Guidelines for Multinational Enterprises

The Swaziland Government encourages foreign and local enterprises to follow generally accepted RBC principles.

11. Political Violence

There are few incidents of political violence against the government or private businesses, but police are known to harass, arrest, and imprison critics of the government. Police routinely prevent or monitor meetings planned by labor unions and other organizations focused on political or socio-economic issues. There are no examples, over the past ten years, of damage to projects and/or installations.

Government critics are under increased pressure in the form of police harassment, criminal charges for sedition and related crimes, and informal harassment of family members. In addition, the low economic growth rate and lack of social protection has begun to politicize the otherwise apolitical rural majority.

12. Corruption

Swaziland passed the Prevention of Corruption Act in 2007 which established the Anti-Corruption Commission. The Swaziland Public Procurement Act became law in 2010. The Swaziland Public Procurement Agency (SPPRA) was established in 2012. The SPPRA will oversee public purchasing and set up a code of conduct for public sector procurement officers to track all public funds not only for procurement but any other contractual agreement for goods, works, or services. Civil society organizations accuse Swaziland's Anti-Corruption Commission of engaging in politically motivated investigations and failing to tackle genuine issues of corruption. The Act disqualifies public sector workers and politicians from supplying the government.

SPPRA conducted capacity building exercises nationwide to increase knowledge and adoption of universally practiced purchasing systems with private companies. According to section 27 of the Public Procurement Regulations, suppliers are prohibited from offering gifts or hospitality, directly or indirectly, to staff of a procuring entity, members of the tender board, and members of the SPPRA.

Only the large multi-national companies in the country have internal controls and compliance programs. Swaziland is a signatory to the African Union Convention on Preventing and Combating Corruption and Related Offences and the SADC Protocol against Corruption. Only the Anti-Corruption Commission is legally allowed to investigate corruption.

Corruption is particularly prevalent in government procurement. As mentioned above, the Swazi government set up the SPPRA to provide regulation and control practices with respect to public procurement. Giving or receiving a bribe is illegal. A convicted person faces a maximum of a 100,000 emalangeni (USD 10,000.00) fine or ten years imprisonment. A convicted law enforcement officer or public prosecutor faces a maximum fine of 200,000 emalangeni (USD 20,000).

Foreign and domestic businesses have indicated that corruption and bribery requests impact profits, contracts, and investment decisions for their companies.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Swaziland has signed and ratified the UN Anticorruption Convention, but it is not party to the OECD Convention on Combating Bribery.

Resources to Report Corruption

Contact at government agency responsible for combating corruption:

Thanda Mngwengwe
Commissioner
Swaziland Anti-Corruption Commission
3rd Floor, Mbandzeni House, Mbabane
+268 2404 3179/0761
anticorruption@realnet.co.sz

13. Bilateral Investment Agreements

Swaziland has bilateral investment treaties in force with the United Kingdom and Germany. The European Union (EU) concluded negotiations on an Economic Partnership Agreement (EPA) on July 15, 2014, with the Southern African Development Community (SADC) group comprised of Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland. The SADC EPA countries are also members of the WTO.

Swaziland also has bilateral investment protection agreements with Egypt, Taiwan, and Mauritius.

Swaziland does not have a bilateral investment treaty with the U.S.

Bilateral Taxation Treaties

Swaziland does not have a bilateral taxation treaty with the U.S.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

There are no duty-free import zones in Swaziland.

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
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2013	3,791	2014	4,413	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	N/A	N/A	2014	1	BEA
Host country's FDI in the United States ($M USD, stock positions)	N/A	N/A	2014	-5	BEA
Total inbound stock of FDI as % host GDP	N/A	N/A	N/A	N/A	N/A

*Central Bank of Swaziland: http://www.centralbank.org.sz

Table 3: Sources and Destination of FDI

Foreign direct investment position data are not available for Swaziland.

Table 4: Sources of Portfolio Investment

Portfolio investment data are not available for Swaziland.

Section 5 - Government

Chiefs of State and Cabinet Members:

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

Legal system:

Mixed legal system of civil, common, and customary law

International organization participation:

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

Section 6 - Tax

Exchange control

For further information -

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

Treaty and non-treaty withholding tax rates

For further information -

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

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

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

Section 3 - Economy

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

(Source: CIA World Factbook)

Section 4 - Foreign Investment

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

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

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

Section 6 - Tax

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

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

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Via our Contact Page at KnowYourCountry.com