

**BOSNIA AND HERZEGOVINA**

**INVESTMENT CLIMATE STATEMENT**  
**2017**

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## 1. Executive Summary

Bosnia and Herzegovina’s (BiH) political environment and complex government structures create significant obstacles to economic development and foreign direct investment. Although open to foreign investment, investors continue to face a number of serious obstacles including corruption, complex legal and regulatory frameworks and government structures, non-transparent business procedures, insufficient protection of property rights, and a weak judicial system. The country’s complicated government structure and political environment has stalled many key economic reforms. BiH’s poor investment climate, lingering effects of the global economic downturn, and the country’s strong connection to still slow growing Europe has resulted in stagnant foreign direct investment inflow over the past five years. According to the World Bank’s Ease of Doing Business Report, BiH is the least competitive economy in Southeast Europe and is currently ranked 81 out of 190 global economies.

Historically, U.S. investment in BiH has been low, primarily due to the challenging business climate and the lack of opportunities for investment. Nonetheless, if fully implemented, the European Union Reform Agenda will gradually open up BiH to foreign investment by improving the labor environment, decreasing regulation, harmonizing economic regulation, and shifting the economy from public to private-led. BiH offers business opportunities to well-prepared and persistent exporters and investors. The country is open to foreign investment and offers a liberal trade regime. It is also richly endowed with natural resources, providing potential opportunities in energy (hydro and thermal power plants), agriculture, timber, and tourism. The best business opportunities for U.S. exporters to BiH include energy generation and transmission equipment, telecommunication and IT equipment and services, transport infrastructure and equipment, engineering and construction services, medical equipment, and raw materials and chemicals for industrial processing. In 2016, the U.S. exported \$179 million in goods to BiH (*source: BiH Statistics Agency*).

Measure	Year	Index/Rank	Website
<b>TI Corruption Perceptions Index</b>	2016	83 of 175	<a href="http://www.transparency.org/research/cpi/overview">http://www.transparency.org/research/cpi/overview</a>
<b>World Bank’s Doing Business Report “Ease of Doing Business”</b>	2016	81 of 190	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
<b>Global Innovation Index</b>	2016	87 of 128	<a href="http://globalinnovationindex.org/content/page/data-analysis">globalinnovationindex.org/content/page/data-analysis</a>

<b>U.S. FDI in BiH</b>	2015	\$200 million	Estimated
<b>World Bank GNI per capita</b>	2015	\$4,670	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

## 2. Openness To, and Restrictions Upon, Foreign Investment

### Policies Toward Foreign Direct Investment (FDI)

#### A. Attitude toward FDI

Bosnia and Herzegovina struggles to attract foreign investment. Complex labor and pension laws, the lack of a single economic space, and inadequate judicial and regulatory protections deter investment. Under the BiH constitution, established through the Dayton Accords, Bosnia and Herzegovina is divided into two “entities,” the Federation of BiH (the Federation) and the Republika Srpska (RS). A third, smaller area, the Brčko District, operates under a separate administration. The Federation is further divided into ten cantons, each with its own government and responsibilities. Each entity also has municipalities for a total of 143 municipalities in BiH (63 in the RS and 80 in the Federation). As a result, BiH has a multi-tiered legal and regulatory framework that can be duplicative and contradictory, and is not conducive to attracting foreign investors.

Employers bear a heavy burden toward governments. They must contribute 69% on top of wages in the Federation and 52% in the RS to the health and pension systems. The labor and pension laws are also deterrents to investment, though both are being reformed to decrease burdens on employers. While corporate income taxes in the two entities and Brčko District are now harmonized at 10%, entity business registration requirements are not harmonized. The RS has its own registration requirements, which apply to the entire entity. Each of the Federation’s ten cantons has different business regulations and administrative procedures affecting companies. Simplifying and streamlining this framework is essential to improving the investment climate. The EU Reform Agenda targets changes that should improve the investment climate by clarifying and simplifying regulation and procedures while decreasing fees faced by businesses at the entity, canton, and municipal levels.

#### B. Discrimination against Foreign Investors

Generally, BiH’s legal framework does not discriminate against foreign investors. However, given the high level of corruption, foreign investors can be at a significant disadvantage in relation to entrenched local companies, especially those with formal or informal backing by BiH’s various levels of government.

### **C. Government Agencies Facilitating Foreign Investment**

The Foreign Investment Promotion Agency (FIPA) is a state-level organization mandated by the Council of Ministers to facilitate and support FDI. FIPA provides data, analysis, and advice on the business and investment climate to foreign investors. All FIPA services are free of charge.

### **D. Government Dialogue with Foreign Investors**

BiH does not maintain an ongoing, formal dialogue with foreign investors. Sporadically, high-ranking government officials give media statements inviting foreign investments in the energy, transportation, and agriculture industries; however, the announcements are rarely supported by tangible, commercially-viable investment opportunities.

### **Limits on Foreign Control and Right to Private Ownership and Establishment**

According to the Law on the Policy of FDI, foreign investors are entitled to invest in any sector of the economy in the same form and under the same conditions as those defined for local residents. There are two exceptions the defense industry and some areas of publishing and media where foreign ownership is restricted to 49%, and electric power transmission, which is closed to foreign investment. In practice, additional sectors are dominated by government monopolies (such as air transportation and airport operation), or characterized by oligopolistic market structures (such as telecommunications and electricity generation), making it difficult for foreign investors to engage.

### **Other Investment Policy Reviews**

In the past three years, the BiH government has not conducted an investment policy review through the Organization for Economic Cooperation and Development (OECD); the World Trade Organization (WTO); or the United Nations Conference on Trade and Development (UNCTAD).

### **Business Facilitation**

Establishing a business in BiH can be an extremely burdensome and time-consuming process for investors. The World Bank estimates there are an average of 12 procedures (actual number depends on the type of business), taking a total of 65 days, to register a new business in the capital city of Sarajevo. Registration in BiH can sometimes be expedited if companies retain a local lawyer to follow up at each step of the process. In 2013, the RS established a one-stop shop for business registration in the entity. On paper, this dramatically reduced the time required to register a business in the RS, bringing the government-reported time to register a company down to an average of 7 to 14 days. Some businesses, however, report that in practice it can take significantly longer.

The entity, cantonal, and municipal levels of government each establish their own laws and regulations on business operations, creating redundant and inconsistent procedures that enable corruption. It is often difficult to understand all the laws and rules that might apply to certain business activities, given overlapping jurisdictions and the lack of a central information source.

It is therefore critical that foreign investors obtain local assistance and advice. Investors in the Federation may register their business as a branch in the RS and vice versa.

The most common U.S. business presence found in BiH are representative offices. A representative office is not considered to be a legal entity and its activities are limited to market research, contract or investment preparations, technical cooperation, and similar business facilitation activities. The BiH Law on Foreign Trade Policy governs the establishment of a representative office. To open a representative office, a company must register with the Registry of Representative Offices, maintained by the BiH Ministry of Foreign Trade and Economic Affairs (MoFTER) and the appropriate entity's ministry of trade.

Additional English-language information on the business registration process can be found at:

BiH Ministry of Foreign Trade & Economic Relations (MoFTER)

Ph: +387-33-220-093

[www.mvteo.gov.ba](http://www.mvteo.gov.ba)

BiH Foreign Investment Promotion Agency (FIPA)

Ph: + 387 33 278 080

[www.fipa.gov.ba](http://www.fipa.gov.ba)

[Republika Srpska Company Registration Website](http://www.investsrpska.net)

<http://www.investsrpska.net>

## **Outward Investment**

The government does not restrict domestic investors from investing abroad. There are no programs to promote or incentivize outward investment.

### **3. Bilateral Investment Agreements and Taxation Treaties**

BiH has signed or ratified 42 investment agreements with the following countries: Albania, Austria, Belgium, Belarus, China, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Netherlands, Hungary, India, Iran, Italy, Jordan, Kuwait, Lithuania, Luxembourg, Macedonia, Malaysia, Moldova, Montenegro, Netherlands, Pakistan, Portugal, Qatar, Romania, Serbia, Libya, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, UAE, Ukraine, and the United Kingdom.

BiH has neither a bilateral investment treaty nor a bilateral income tax treaty with the United States.

BiH had been designated as a beneficiary country under the United States Generalized System of Preferences (GSP) program through December 31, 2017. Between 2010 and 2015, BiH exported to the U.S. over \$22 million worth of goods eligible for the GSP program.

The Interim Agreement on Trade and Trade-related matters (IA) between the European Union and Bosnia and Herzegovina is currently in force. According to the IA, all goods of BiH origin

that fulfill EU technical standards and conditions can be imported to all EU countries without any quantitative restrictions and without paying customs or other similar duties. Only sugar, wine, fish, and baby beef are subject to specific quotas, beyond which duties are to be paid by Bosnia and Herzegovina for export to the EU. Since 2009, import tariffs have been eliminated for more than 11,000 products that BiH imports from the EU.

In December 2016, BiH and the EU signed the Protocol on Trade to the Stabilization and Association Agreement (SAA), which was adapted to reflect Croatia's July 2013 accession to the EU. The adapted SAA provided for unlimited, duty-free access for BiH fruits and vegetables under the Autonomous Trade Measures for Western Balkan countries, and opened higher quotas for fish, wine, sugar, and baby beef exports from BiH to the EU market. On the other side, BiH established duty-free quotas for sugar, cigarettes, beef, pork, milk, poultry products, and potatoes imported from the EU. The two sides initially agreed the adapted EU-BiH SAA would enter into force on February 1, 2017, pending ratification by the EU and BiH, but EU ratification is not yet complete.

#### **4. Legal Regime**

##### **Transparency of the Regulatory System**

The government has adequate laws to foster competition; however, due to corruption, laws are often not implemented transparently or efficiently. The multitude of state, entity, cantonal (in the Federation only), and municipal administrations – each with the power to establish laws and regulations affecting business – creates a heavily bureaucratic, non-transparent system. Ministries and/or regulatory agencies are not typically obligated to publish the text of proposed regulations before they are enacted. Some local and international companies have expressed frustration with generally limited opportunities to provide input and influence/improve draft legislation that impacts the business community.

Foreign investors have criticized government and public procurement tenders for a lack of openness and transparency. Dispute resolution is also challenging as the judicial system moves slowly, often does not adhere to existing deadlines, and provides no recourse if the company in question re-registers under a different name. It is difficult to know all of the laws or rules that might apply to certain business activities, given overlapping jurisdictions and the lack of any central source of information. Foreign investors often, therefore, obtain local assistance and advice.

In an effort to promote the growth of business in its entity, the Republika Srpska government passed a series of amendments in fall and winter 2013 to create an RS one-stop-shop for business registration. This institution centralizes the process of registering a business, ostensibly making it easier, faster, and cheaper for new business owners to register their companies in the RS. The Federation also plans to establish a one-stop-shop.

Businesses are subject to inspections from a number of entity and cantonal/municipal agencies, including the financial police, labor inspectorate, market inspectorate, sanitary inspectorate, health inspectorate, fire-fighting inspectorate, environmental inspectorate, institution for the protection of cultural monuments, tourism and food inspectorate, construction inspectorate,

communal inspectorate, and veterinary inspectorate. Some investors have complained about non-transparent fees levied during inspections, changing rules and regulations, and an ineffective appeals process to protest these fines.

### **Legal System and Judicial Independence**

BiH has a clogged court system and it often takes several years for a case to be brought to trial. Moreover, commercial cases with subject matter that judges do not have experience adjudicating, such as intellectual property cases, are often left unresolved for lengthy periods of time. Most judges have little to no in-depth knowledge of adjudicating international commercial disputes and require training on applicable international treaties and laws. Regulations or enforcement actions can be appealed, and appeals are adjudicated in the national court system.

The U.S. Government has provided training to judges, trustees, attorneys, and other stakeholders at the state and entity levels to assist in the development of bankruptcy and intellectual property rights laws. Those laws are now in effect at both the entity and state levels, but have not been fully implemented.

### **Laws and Regulations on Foreign Direct Investment**

The state-level Law on the Policy of Foreign Direct Investment accords foreign investors the same rights as domestic investors and guarantees foreign investors national treatment, protection against nationalization/expropriation, and the right to dispose of profits and transfer funds. In practice, most business sectors in Bosnia and Herzegovina are fully open to foreign equity ownership. Notable exceptions to this general rule are select strategic sectors, such as defense; electric power transmission, which is closed to foreign investment; and some areas of publishing and media, where foreign ownership is restricted to 49% (see above). However, an Entity Government may decide that companies normally subject to this limitation are not subject to restrictions.

According to FDI Law amendments adopted in March 2015, foreign investors can now own more than 49% of capital business entities dealing with media activities, such as publishing newspapers, magazines and other journals, publishing of periodical publications, production and distribution of television programs, privately-owned broadcasting of radio and TV programs, and other forms of daily or periodic publications. The new FDI Law maintains the restriction that foreign investors cannot own more than 49% of public television and radio services. The March 2015 amendments also set conditions to enhance legal security and clarity for foreign direct investment flows. The Foreign Investment Promotion Agency maintains a list of laws relevant to investors on its website:

[http://www.fipa.gov.ba/publikacije\\_materijali/zakoni/default.aspx?id=317&langTag=en-US](http://www.fipa.gov.ba/publikacije_materijali/zakoni/default.aspx?id=317&langTag=en-US)

The complex legal environment in BiH underlines the utility of local legal representation for foreign investors. Bosnian attorneys' experience base is still limited with respect to legal questions and the issues that arise in a market-oriented economy. However, local lawyers are quickly gaining experience in working with international organizations and companies operating in BiH. Companies' in-house legal counsel should be prepared to oversee their in-country counsel, with explicit explanations and directions regarding objectives. The U.S. Embassy



maintains a list of local lawyers willing to represent U.S. citizens and companies in BiH. The list can be accessed at <http://sarajevo.usembassy.gov/lawyers.html>.

### **Competition and Anti-Trust Laws**

BiH has a Competition Council, designed to be an independent public institution to enforce anti-trust laws, prevent monopolies, and enhance private sector competition. The Council reviews and approves foreign investments in cases of mergers and acquisitions of local companies by foreign companies. The Competition Council consists of six members appointed for six-year terms of office with the possibility of one reappointment. The BiH Council of Ministers appoints three Competition Council members, the Federation Government appoints two members, and the RS Government appoints one member. From the six-member Competition Council, the BiH Council of Ministers affirms a president of the Council for a one-year term without the possibility of reappointment.

### **Expropriation and Compensation**

BiH investment law forbids expropriation of investments, except in the public interest. According to Article 16, “Foreign investment shall not be subject to any act of nationalization, expropriation, requisition, or measures that have similar effects, except where the public interest may require otherwise.” In such cases of public interest, expropriation of investments would be executed in accordance with applicable laws and regulations, be free from discrimination, and include payment of appropriate compensation. Neither the entity governments nor the state government have expropriated any foreign investments to date.

### **Investment Dispute Settlement**

BiH is a signatory of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"). Bosnia and Herzegovina is a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID), also known as the Washington Convention.

Over the last decade, there has been only one case of a legal dispute involving a U.S. investor and the local government. While efforts are being made to improve BiH’s commercial court system, its current capacity and practical inefficiencies limit timely resolution of commercial disputes.

### **International Arbitration**

BiH has been a member of the International Center for the Settlement of Investment Disputes since 1997. BiH does not have a Bilateral Investment Treaty (BIT) or Free Trade Agreement (FTA) with the United States. It accepts international arbitration to settle private investment disputes if the parties outline this option in a contract.

The only domestic arbitration body in BiH, the Arbitration Court of the BiH Foreign Trade Chamber, is an inexperienced institution. It needs updated and modernized laws and regulations to comply with international norms and standards. The Arbitration Court would benefit from

licensed and trained arbitrators. Domestic arbitration legislation is encompassed within the Civil Procedure Code and is not currently modeled on internationally-accepted regulations. As for the legislation, arbitration is generally poorly addressed. Namely, there are few provisions in the entities' laws that regulate litigation procedures, which are the legal basis for parties in dispute to entrust the dispute to arbitration. There is no legislation that is modelled on internationally accepted regulations, such as the model law of the United Nations Commission on International Trade Law (UNCITRAL).

### **Bankruptcy Regulations**

Both the Federation and Republika Srpska entities have Laws on Bankruptcy. However, bankruptcy proceedings are not resolved in a timely manner, and there is insufficient emphasis placed on companies' rehabilitation and/or reorganization. The entities' laws define the rights of creditors, equity shareholders, and holders of other financial contracts. Foreign contract holders enjoy the same rights as local contract holders. Bankruptcy is not criminalized. The U.S. Government provided recent training to judges on international bankruptcy principles.

## **5. Industrial Policies**

### **Investment Incentives**

There are some incentives for foreign direct investment, including exemptions from payment of customs duties and customs fees. Bosnia and Herzegovina is divided into three jurisdictions for direct tax purposes: the Federation, the RS, and the Brčko District.

In the Federation, RS, and Brčko District, the corporate income tax allows offsetting of losses against profits over a five-year period. Foreign investors can open bank accounts in all jurisdictions and transfer their profits abroad without any restrictions. The rights and benefits of foreign investors granted and obligations imposed by the Law on the Policy of Foreign Direct Investment cannot be terminated or overruled by subsequent laws and regulations. Should a subsequent law or regulation be more favorable to foreign investors, the investor has the right to choose the most beneficial regulations.

In addition to the BiH-wide incentives listed above, the two entities and the Brčko District have specific incentives. In the Brčko District, investments in fixed assets are subject to tax relief.

### **In the Federation:**

A taxpayer who invests KM 20 million (approx. \$12 million) over a period of five years is exempted from paying corporate income tax for the period of five years beginning from the first investment year, in which a minimum KM 4 million (approx. \$2.5 million) must be invested, shall have reduced the obligations of the calculated income tax for 50% of the amount in the year of investment. A taxpayer that does not make the prescribed investment in the time period of five years loses the right of tax exemption. In that case, unpaid corporate income tax is determined in accordance with the provisions of the Law on Corporate Income Tax augmented with a penalty interest payable for untimely paid public revenues.

A taxpayer whose workforce is more than 50% disabled persons and persons with special needs in any given year are exempted from paying corporate income tax. The exemption applies to the applicable year in which disabled persons and persons with special needs met the required threshold. Employees must have been with the company for longer than one year to be considered.

### **In the Republika Srpska:**

In its Amendments to the Law on Profit Tax, the RS reduced taxes on investments in equipment intended for company production and investment in plants and immovable property used for manufacturing and processing.

For employers with at least 30 workers during a calendar year, there is a tax base reduction in personal income tax and mandatory employer contribution of the employer. Employees must be officially listed with the RS Employment Office.

The RS Decree on Conditions and Implementation of the Investment and Employment Support Program (Official Gazette of RS No. 70/12) also established new incentives in 2012 meant to encourage and support direct investments, employment growth, and transfer of new knowledge and technologies. To qualify for the incentives, participants must have existing investment projects in the RS manufacturing sector, a minimum investment value of KM 2 million (\$1.2 million), and new employment for at least 20 workers. The total funding awarded is proportional to the investment value, the number of newly employed, and the development level of the investment location.

In early 2015, the RS government passed the Law on Property Tax, which imposes a flat rate for property taxes in all municipalities; the Law on Income Tax, which exempts dividends and profit shares from taxation; the Law on Corporate Income Tax, which broadens the scope of deductible expenses and harmonizes taxes for foreign investors; and the Law on Contributions, which decreases tax contributions employers pay on salaries by 1.4%.

### **Foreign Trade Zones/Free Ports/Trade Facilitation**

The BiH Law on Free Trade Zones allows the establishment of free trade zones (FTZs) as part of the customs territory of BiH. Currently there are four free trade zones in BiH: Vogošća, Visoko, Hercegovina-Mostar, and Holc Lukavac. One or more domestic or foreign legal entities registered in BiH may create a FTZ.

FTZ users do not pay taxes and contributions, with the exception of those related to salaries and wages. Investors are free to invest capital in the FTZ, transfer their profits, and retransfer capital. Customs and tariffs are not paid on imports into FTZs. FTZ is considered economically justified if the submitted feasibility study and other evidence can prove that the value of goods exported from a free zone will exceed at least 50% of the total value of manufactured goods leaving the free zone within the period of 12 months.

## **Performance and Data Localization Requirements**

BiH government does not have a “forced localization” policy in which foreign investors must use domestic content or sourcing in goods, human capital, or technology. Also, there are no requirements for foreign IT providers to turn over source code and/or provide access to surveillance. There are no mechanisms in place used to enforce rules on maintaining a certain amount of data storage within the country.

## **6. Protection of Property Rights**

### **Real Property**

The 2016 World Bank Doing Business Report ranked BiH at number 97 out of 189 in the ease of registering property, which takes seven procedures and an average of 24 days. Registration of real property titles is generally acknowledged as a significant barrier to the real property and mortgage market development. The present system consists of separate geodetic administrations for the Federation and the RS, which are responsible for real property cadasters. Real property cadasters describe and certify the legal object, e.g. land, house, etc. Separately, the land registry establishes legal ownership and rights for the specific object and is maintained by the municipal courts. A significant portion of land and real estate property does not have a clear title due to restitution issues. Foreigners must register a local company to purchase property; the company then makes the purchase and is recorded as the land owner. The exception to this rule is if the foreigners’ country of citizenship has a reciprocal land ownership agreement with BiH. In that case, the foreigner may directly own land.

### **Intellectual Property Rights**

Companies should consider several general principles for effective management of intellectual property rights (IPR) in BiH. It is important for companies to have a comprehensive IPR protection strategy. IPR is protected differently in BiH than in the United States and rights must be registered and enforced according to local law. U.S. trademark and patent registrations do not protect IPR in BiH.

Bosnia’s IPR framework consists of seven laws, adopted and put into force by the BiH Parliament in 2010. This legislation is compliant with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and EU legislation. BiH belongs to over 20 international treaties related to IPR and, in 2009, ratified the 1996 World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performance and Phonograms Treaty. Although existing legislation provides a basic level of protection, BiH’s civil and criminal enforcement remains weak.

Jurisdiction over IPR investigations is split between customs officials, entity inspectorates, and state and entity law enforcement agencies, and no institution has specialized IPR investigation teams. IPR crimes are prosecuted primarily at the state level. Cases in which companies are indicted often involve fairly low-level violators. More significant cases have sometimes languished for years with little action from prosecutors or judges.

The entity governments have been using licensed software for a number of years. The state-level government came into compliance in 2009, a significant step forward in the government's commitment to IPR protection. Some of the Cantonal governments continue using unlicensed software. However, some officials still lack understanding of the importance of IPR. Illegal DVDs and CDs are still available for sale in small public markets. BiH's enforcement record still leaves much room for improvement. At this time, there is no mechanism to combat digital piracy.

In BiH's private sector, awareness of IPR, particularly the importance of copyright protection, remains low, though the emergence of a local software development industry is helping to raise awareness. Curbing business software piracy could significantly improve the local economy by creating new jobs and generating tax revenue. The failure to recognize the importance of preventing copyright infringement makes software producers and official distributors less competitive and the establishment of a legitimate market more difficult. Businesses in BiH lose an estimated \$15 million annually from the sale of counterfeit software, CDs, and DVDs. According to the Business Software Alliance (BSA), the rate of illegal software installed on personal computers in Bosnia and Herzegovina currently remains at 66%, which is the regional average.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so businesses should consider applying for trademark and patent protection prior to introducing their products or services in the BiH market. The U.S. government generally cannot enforce rights for private individuals in BiH. Companies may wish to seek advice from local attorneys who are experts in IPR law.

Collective copyright protection also remains a challenge in Bosnia and Herzegovina. The Association of Composers and Musical Authors is the only licensed collective management organization for music authors in BiH. It faces enforcement challenges, and both members and users remain skeptical and unfamiliar with collective copyright management protection. There is currently no established local representative to collect and distribute royalties for visual artists, filmmakers, and literary authors.

The U.S. Government, in conjunction with local partners, has made IPR awareness within the enforcement community a priority through training and public awareness programs. The U.S. Department of Commerce (DOC) conducted a judicial training on intellectual property rights in the Republika Srpska in early 2016. DOC supports other capacity building for judiciary in intellectual property, including assistance with writing and publishing a judicial bench book and promoting the international arbitration regime in Bosnia.

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

## **7. Financial Sector**

### **Capital Markets and Portfolio Investment**

Capital markets remain underdeveloped in BiH. Both entities have created their own modern stock market infrastructure with separate stock exchanges in Sarajevo (SASE) and Banja Luka (BLSE), both of which started trading in 2002. The small size of the markets, lack of privatization, and public mistrust of previous privatization programs has impeded the development of the capital market. During the global economic crisis, foreign investment dwindled and investors saw previous gains dissipate on both exchanges. Foreign investment has shown no signs of growth since 2008, shaped not only by the global financial crisis but also by BiH's lack of political stability and slowdown of reforms.

Both the RS and Federation issued government securities for the first time during 2011, as part of their plans to raise capital in support of their budget deficits during this period of economic stress. Both entity governments continue to issue government securities in order to fill budget gaps. These securities are also available for secondary market trading on the stock exchanges.

On March 6, 2017, Moody's gave BiH a B3 credit rating with a stable outlook, forecasting the Bosnian economy will expand by 3.2% in 2017 and GDP will grow by 3.7% in 2018. Moody's concluded BiH's rating is constrained by challenges related to government effectiveness, a wide external deficit, and high unemployment. The challenging political environment has hindered progress on the EU's Reform Agenda. According to Moody's, the rating could increase with structural, institution-strengthening reforms, streamlined policymaking processes, and compliance with the current IMF agreement to ensure government debt sustainability. By contrast, downward rating pressures could occur if the country were to fail to comply with the new IMF deal, which would increase uncertainty about the government's ability to roll over the large IMF repayments due over the coming years.

### **Money and Banking System**

The banking and financial system has been stable with the most significant investments coming from Austria. As of March 2017, there are 27 commercial banks operating in BiH: 18 with headquarters in the Federation and 9 in the Republika Srpska. Twenty four commercial banks are members of a deposit insurance program, which provides for deposit insurance of KM 50,000 (\$28,000). In 2015, two commercial banks in the RS, Bobar Banka (Bijeljina) and Banka Srpske (Banja Luka) collapsed, and both are in bankruptcy proceedings. The banking sector is divided between the two entities with entity Banking Agencies responsible for banking supervision. The BiH Central Bank defines and controls the implementation of monetary policy (via its currency board) and supports and maintains payment and settlement systems. It also coordinates the activities of the entity Banking Agencies, which are in charge of bank licensing and supervision. Reforms of the banking sector, mandated by the IMF and performed in conjunction with the IMF and World Bank, are in progress.

BiH passed a state-level framework law in 2010 mandating the use of international accounting standards, and both entities passed legislation that eliminated differences in standards between the entities and Brčko District. All governments have implemented accounting practices that are fully in line with international norms.

## Foreign Exchange and Remittances

### *Foreign Exchange*

The Law on Foreign Direct Investment guarantees the immediate right to transfer and repatriate profits and remittances. Local and foreign companies may hold accounts in one or more banks authorized to initiate or receive payments in foreign currency. The implementing laws in both entities include transfer and repatriation rights. The Central Bank's adoption of a currency board in 1997 guarantees the local currency, the convertible mark or KM (aka BAM), is fully convertible to the euro with a fixed exchange rate of  $KM 1.95583 = €1.00$ .

### *Remittance Policies*

BiH has no remittance policy, although remittances are generally high due to a large diaspora. Remittances are estimated to range up to 15 % of total GDP. Based on the two entities' Laws on Foreign Currency Exchange, all payments in the country must be in national currency.

## Sovereign Wealth Funds

BiH does not have a government – affiliated Sovereign Wealth Fund.

## 8. State-Owned Enterprises

In BiH, the vast majority of public companies are owed by subnational governments: the two entities and ten cantons. Private enterprises can compete with SOEs under the same terms and conditions with respect to market share, products/services, and incentives. In practice, SOEs have the advantage over private enterprises, especially in sectors such as telecommunications and electricity, where government-owned enterprises have traditionally held near-monopolies. Generally, government-owned companies are controlled by various alliances of political parties, increasing the possibilities for corruption and inefficient company management. With the exception of SOEs in the telecom and electricity sectors, many of the remaining public companies are bankrupt or on the verge of insolvency, and represent a growing liability to the government.

The country is not party to the Government Procurement Agreement within the framework of the WTO.

## Privatization Program

Privatization offerings are scarce and often require unfavorable terms. Some formerly successful state-owned enterprises have accrued significant debts from unpaid health and pension contributions, and potential investors are required to assume these debts and maintain the existing workforce. Under the state-level FDI Law, foreign investors may bid on privatization tenders. International financial organizations, such as the European Bank for Reconstruction and Development (EBRD) are heavily engaged on privatization and restructuring efforts across the remaining portfolio of state owned enterprises. Historically, the privatization process in BiH has resulted in economic loss due to corruption. From 1999 to 2015, more than 1,000 companies

were fully privatized, while around 100 were partially privatized. The bad privatizations led to the loss of value of state property and many of the privatized companies were weakened or ruined in the privatization process. The focus on corrupt privatizations highlights the strength of public views that privatization just leads to unemployment and the enrichment of a few politically-connected individuals. Well-done privatizations and restructurings that improve service delivery, business productivity, and employment could help the image of privatization and build support for a long overdue shift away from a government-led economy.

The Federation government is focused on privatizing or restructuring some state owned enterprises (SOEs) based on the Federation Agency for Privatization's 2016 privatization plan. In 2016, the Federation Government sold its stake in the insurer Sarajevo Osiguranje (45% stake), the Sarajevo Tobacco Factory (39.9% stake), the fuel retailer Energopetrol (33% stake), and BiH's largest pharmaceutical company, Bosnalijek (19% stake). The 12 remaining companies listed in the privatization plan have posted losses and suffered significant declines in their value, while others have only a small amount of public ownership.

The privatization process in the RS is carried out by the RS Investment Development Bank (IRBRS). Many prospective companies have been already privatized, and out of 163 not yet privatized companies, many are being liquidated or undergoing bankruptcy. In 2016, the RS government announced plans to sell its capital in 22 companies. The plan envisions the privatizations to take place via the sale of government shares on the stock exchange. Although the RS National Assembly passed a decision that the entity has no plans to privatize the energy sector, the RS government maintains the possibility of joint ventures in the energy sector.

## **9. Responsible Business Conduct**

Foreign and local companies conduct some corporate social responsibility activities and there is a general awareness of standards for responsible business conduct. More could be done in this area to respond to BiH's various social and economic needs. In general, consumers tend to view favorably companies that initiate and carry out charitable activities in the local market. Corporate governance is not part of the broader economic mindset, and shareholder protection is not a priority. The financial system is not yet developed enough to understand and apply principles of corporate governance and shareholder protection.

## **10. Corruption**

Corruption remains prevalent in many political and economic institutions in Bosnia and Herzegovina and raises the costs and risks of doing business. BiH's overly complex business registration and licensing process is particularly vulnerable to corruption. The multitude of state, entity, cantonal, and municipal administrations, each with the power to establish laws and regulations affecting business, creates a system that lacks transparency and opens opportunities for corruption via para-fiscal fees. Paying bribes to obtain necessary business licenses and construction permits, or simply to expedite the approval process, occurs regularly. Foreign investors have criticized government and public procurement tenders for a lack of openness and transparency.



Transparency International's (TI) 2016 Corruption Perception Index ranked BiH 83 out of 176 countries. According to TI, relevant institutions lack the will to actively fight corruption; law enforcement agencies and the judiciary are not effective in the prosecution of corruption cases and are visibly exposed to political pressures; and prosecutors complain that citizens generally do not report instances of corruption and do not want to testify in these cases. In 2011, BiH established a state level agency to prevent and coordinate efforts to combat corruption; while officially active, the agency has shown limited results.

Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It deters foreign investment, stifles economic growth and development, distorts prices, and undermines the rule of law. U.S. companies must carefully assess the business climate and develop an effective compliance program and measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms should take the time to become familiar with the relevant anticorruption laws of both BiH and the United States in order to properly comply, and where appropriate, seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, and uphold obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies.

U.S. firms should become familiar with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

The U.S. Department of Commerce offers a number of services to aid U.S. businesses. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting due diligence when choosing business partners or agents overseas and provide support for qualified U.S. companies bidding on foreign government contracts. For a list of U.S. Foreign and Commercial Service offices, please visit the Commercial Service website: [www.trade.gov/cs](http://www.trade.gov/cs)

Alleged corruption by foreign governments or competitors can be brought to the attention of appropriate U.S. government officials, including U.S. Embassy personnel or through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" Website at: [www.tcc.export.gov/Report\\_a\\_Barrier/index.asp](http://www.tcc.export.gov/Report_a_Barrier/index.asp)

Contact at government agency or agencies responsible for combating corruption:

BiH Agency for the Prevention of Corruption and Coordination of the Fight against Corruption  
Phone: +387 57 322 540  
email: kontakt@apik.ba  
[www.apik.ba](http://www.apik.ba)

Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption):

Transparency International BiH

Phone: +387 51 216928

Fax: +387 51 216369

email: [info@ti-bih.org](mailto:info@ti-bih.org)

[www.ti-bih.org](http://www.ti-bih.org)

BiH signed and ratified the UN Anticorruption Convention in October 2006. BiH is also party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

## **11. Political and Security Environment**

The war in Bosnia and Herzegovina was halted by the Dayton Peace Accords in November 1995. There have been no attacks targeting foreign investments. However, there are still risks from occasional, localized political and criminal violence. In mid-June 2013 and early 2014, large groups of citizens protested the country's economic stagnation and the government's apparent inability to improve the situation. The vast majority of protests were peaceful with relatively small numbers of participants. The first string of protests took place in Sarajevo, while the second outbreak of protests occurred in several cities throughout the country but mainly within the Federation. Protests in early 2014 in the cities of Sarajevo, Mostar, and Tuzla resulted in attacks on government buildings, destruction of government property, and injury. There were no reports of foreign investors being directly targeted in the protests.

## **12. Labor Policies and Practices**

BiH has a workforce with low labor costs by western standards, and university enrollments have been increasing for a number of years. However, several sectors such as construction, information technology, and health care have experienced a significant loss of skills over the past decade due to a lack of education and job training opportunities, as well as emigration. Tax rates on labor are high, discouraging employment of new workers and increasing incentives for unregistered employment. Current labor legislation provisions make it difficult to dismiss redundant and inefficient workforce. Labor tax reforms are in progress.

Each entity has its own pension and health care systems, and the systems are not harmonized. Companies working in both entities have two sets of rules to follow related to employment, wages, and contributions. Employees and employers share the costs of health care, pension, and unemployment insurance in the Federation while in the Republika Srpska employers cover all of these costs, as well as child care and unemployment contributions. Many employers underreport their labor force to avoid paying taxes and benefits, creating a significant gray market. Official unemployment is approximately 41.5%. However, unemployment based on the International Labor Organization (ILO) definition, which factors in unregistered workers in the "gray economy," is approximately 27%. The ILO estimates youth to be 60%. The majority of unemployed persons are skilled workers.

Both entities passed new labor laws in 2016. The new labor laws are critical to modernizing the BiH labor code, a system inherited from former Yugoslavia that is rigid, outdated, and unfriendly to businesses. The laws should reduce the cost of employment and ease of hiring and firing for private companies and the public sector. The laws should also decrease or eliminate costly benefits that are out of line with European standards and streamline hiring and firing. Reforming the labor laws in BiH has been a long and challenging process that the governments avoided for years. The passage of the new labor laws represents an important first step toward economic reform that will modernize the BiH labor market and bring it closer to EU standards.

### 13. OPIC and Other Investment Insurance Programs

Overseas Private Investment Corporation (OPIC) concluded an investment incentive agreement with BiH in 1996. (OPIC) activities in BiH include insurance for investors against political risk; coverage of losses due to expropriation of assets, political violence, and currency inconvertibility; and insurance coverage for contracting, exporting, licensing and leasing transactions.

Political risk insurance is also available from the EU Investment Guarantee Trust for BiH, administered by the Multilateral Investment Guarantee Agency, a World Bank affiliate.

### 14. Foreign Direct 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
	Year	Amount	Year	Amount	
<b>Host Country Gross Domestic Product</b>	2015	\$18.5 billion	2015	\$18.5 billion	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
<b>U.S. FDI in partner country</b>	2015	\$200 million (estimate)	N/A	N/A	N/A

*Table 3: Sources of FDI*

<b>Inward Direct Investment</b>		
Total Inward	Amount	100[
Austria	1,145	24%
Serbia	950	12%
Croatia	942	12%
Russia	450	6%
Slovenia	380	4%

According to the BiH Central Bank, FDI in BiH in the first nine months of 2016 amounted to \$152 million, almost half of FDI in the same period in 2015. The all-time high for FDI was \$2.1 billion in 2007. FDI also fell in 2015, with \$262.8 million total investments, or a decrease of 38.9% compared to 2014. Most investments in 2012-2015 came from Russia, Austria, Croatia, Serbia, Kuwait, and the United Kingdom.

## 15. Contact for More Information

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website: [www.sarajevo.usembassy.gov/business.html](http://www.sarajevo.usembassy.gov/business.html)  
– will run any major changes by F/O