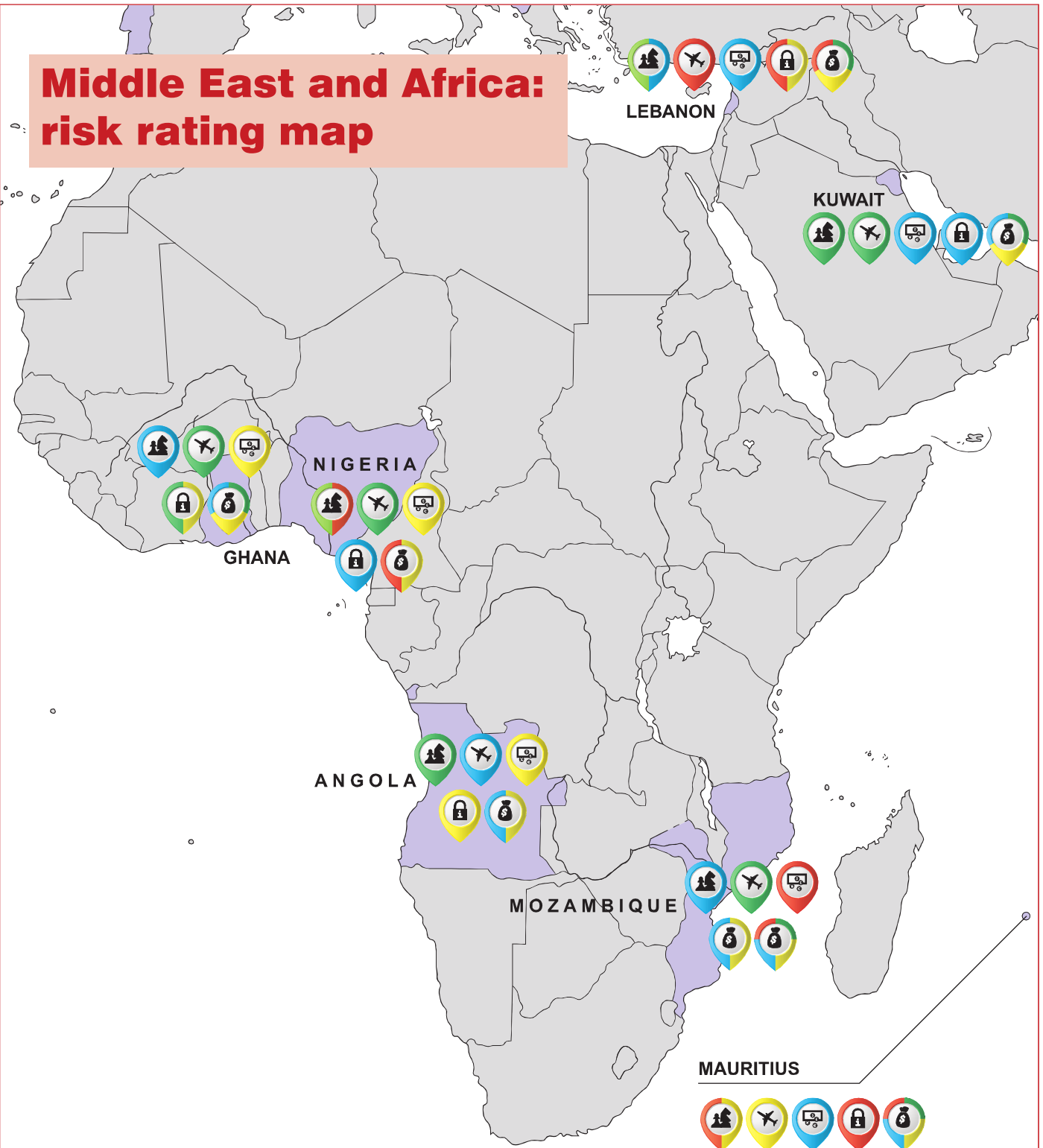


Middle East and Africa: risk rating map



Key

- Unrestricted regulation
- Limited regulation
- Moderate regulation
- Strict regulation
- Antitrust & competition
- Extradition
- Exchange controls
- Data protection and privacy
- Financial regulation

Mozambique

Fabrícia de Almeida Henriques and Paula Duarte Rocha, Mozambique Legal Circle Advogados

Section 1: ANTITRUST AND COMPETITION

1.1 At what level does your authority have jurisdiction to review and impose penalties for failure to notify deals that do not have local competition effect?



There is no active merger control regime in place. Only with respect to certain sectors of activity (such as credit and finance institutions) do specific provisions apply, requiring prior consent by the regulatory authority. Failure to comply will call for the application of penalties.

1.2 Does the antitrust regime extend to agreements or conduct taking place outside your jurisdiction and if so to what extent does there need to be a local effect?



There is no active antitrust regime in place.

Section 2: EXTRADITION

2.1 Do authorities in your jurisdiction have multilateral extradition treaties and how active are they in requesting the extradition of people for conduct taking place outside that jurisdiction?



Mozambique is party to and has some extradition treaties in place. To date, extradition has not been used in relation to commercial matters (antitrust breaches included).

Section 3: EXCHANGE CONTROLS

3.1 Do you control capital movements?



There are strict controls in place on capital transactions, which are subject to prior approval by the exchange control authority in Mozambique and resident entities cannot hold foreign currency accounts or borrow foreign currency, unless it is with the prior approval by the exchange control authority. Current transactions, basically entailing the payment of goods and services, are no longer subject to prior approval by the exchange control authority, but must only register with this authority.

Section 4: DATA PROTECTION AND PRIVACY

4.1 What are the extraterritorial data protection obligations in your jurisdiction?



Mozambique has constitutional privacy protections, together with civil and labour law restrictions on the interception and monitoring of communications. A new law on data privacy protection is under study, but it is not clear when it will be submitted to Parliament.

4.2 Do you have bank secrecy rules in place that apply to entities operating outside your jurisdiction?



We do not have data privacy rules as such; but banks – included in the qualification of credit and finance institutions – are subject to strict requirements that are greater than normal contractual duties of confidentiality that might be owed to clients and that prevent disclosure of client data to third parties, and transfer of that data outside of our jurisdiction.

Section 5: FINANCIAL REGULATION

5.1 How are banks supervised by their regulatory authorities in your jurisdiction and how has this changed in response to the economic crisis that started in western economies in 2008?



Banks are subject to detailed supervision, but there have been no significant measures to make the regime stricter since the start of the crisis.

5.2 Are there any restrictions on foreign ownership of banks in your jurisdiction?



Restrictions on ownership of Mozambique banks' shareholdings, whether by foreign or domestic investors, applies only to those entities that are part of a group or controlled.

5.3 Are there any restrictions on the ability of foreign financial institutions to conduct business with customers and other counterparties in your jurisdiction (i) by establishing a permanent place of business in your jurisdiction or (ii) by providing services on a crossborder basis into your jurisdiction without establishing a physical presence there?



Both (i) or (ii) above are absolutely prohibited.

All financial institutions, whether domestic or foreign, must be authorised by the Mozambique supervisory authority – the Bank of Mozambique. The rules are substantially the same for both foreign (branches) and domestic institutions.



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5.4 Are there extraterritorial laws relating to financial services in your country that can affect transactions taking place wholly outside your country?



Extraterritoriality is very restrained.

About the author

Fabrícia de Almeida Henriques, a member of the Mozambican and Portuguese Bar Associations, has experience in Mozambican law, having advised clients on corporate, commercial and energy law in that jurisdiction.

Henriques is a partner with MLC Advogados founded in 2012 by a team of highly reputable lawyers with Mozambican nationality. MLC Advogados is a member of the MLGTS Legal Circle.

Starting her career at Morais Leitão, Galvão Teles, Soares da Silva, she participated in several privatisations involving Portuguese companies, and in project finance transactions. More recently, her activity has been primarily focused on assisting national and international clients in M&A operations, mainly in the energy sector. She is a consultant for Morais Leitão, Galvão Teles, Soares da Silva in all matters pertaining to Mozambique.

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Paula Duarte Rocha is a partner with Mozambique Legal Circle Advogados (MLC Advogados) founded in 2012.

Even before finishing her degree in law, she started her career as a legal assistant to one of the founding partners at Miranda Correia Amendoeira & Associados. From 2000 to 2002, she provided multi-disciplinary legal consultancy at the tax and legal services department of PricewaterhouseCoopers, cooperating with national and foreign investors. She was also an associate lawyer and senior legal adviser at MGA Advogados & Consultores.

More recently, Duarte Rocha was managing partner and lawyer at Ferreira Rocha & Associados, Sociedade de Advogados, involved in all areas of practice

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