LEGATUM INSTITUTE

GLOBAL INDEX OF ECONOMIC OPENNESS

Economic Openness

United States Case Study

2019

ABOUT THE LEGATUM INSTITUTE

The Legatum Institute is a London-based think-tank with a global vision: to see all people lifted out of poverty. Our mission is to create the pathways from poverty to prosperity, by fostering Open Economies, Inclusive Societies and Empowered People.

We do this in three ways:

Our **Centre for Metrics** which creates indexes and datasets to measure and explain how poverty and prosperity are changing.

Our **Research Programmes** which analyse the many complex drivers of poverty and prosperity at the local, national and global level.

Our **Practical Programmes** which identify the actions required to enable transformational change.

ABOUT THE AUTHOR

Dr. Stephen Brien is Director of Policy at the Legatum Institute.

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FOREWORD

Baroness Stroud
CEO, Legatum Institute

Our mission at the Legatum Institute is to create the pathways from poverty to prosperity by fostering open economies, inclusive societies, and empowered people. Our work is focused on understanding how prosperity is created and perpetuated. Prosperity is much more than material wealth; it also encompasses welfare, security, wellbeing, freedom, and opportunity. Without an open, competitive economy, however, it is very challenging to create lasting social and economic wellbeing where individuals, communities, and businesses are empowered to reach their full potential. That is why we view Economic Openness as so important.

With the generous support of the Templeton World Charitable Foundation, we have created a Global Index of Economic Openness to rank 157 countries' openness to commerce, assessing the environment that enables or hinders their ability to trade both domestically and internationally. Our ambition is that it becomes a valued tool for leaders and advisers around the world, to help set their agendas for economic growth and development. As part of this program of work, we are undertaking a series of in-depth country case studies based on the Index, including this report on the United States, in which we analyse its performance in the key characteristics of openness to trade, investment, ideas, competition, and talent.

Trade between countries, regions, and communities is fundamental to the advance of the innovation, knowledge-transfer and productivity that creates economic growth and prosperity. The spread of free trade has enabled more and more people to participate in commerce, allowing them to move from subsistence farming towards a more stable and prosperous existence. More recently, the technological revolution has enabled millions of people to take part in commercial, political, and social discourse thanks to the accessibility and affordability of new technology.

Our research shows that economically open countries are more productive, with a clear correlation between increased openness over time and productivity growth. In contrast, in an uncomptetitive market, or one that is not designed to enhance the engagement and wellbeing of all, growth stagnates, protected industries become entrenched and crony capitalism thrives.

While most policy-makers focus on the big fiscal and macroeconomic policy tools at their disposal, the microeconomic factors are sometimes overlooked, and their potential to drive openness and growth is underestimated. A notable feature of this Index is a focus on these microeconomic drivers of productivity. By bringing the full range of disparate policy choices that influence and drive openness and competition together in one report, we hope to shift the focus of policy-makers, in the United States and around the world, towards the broader implications of microeconomic policy by emphasising the relationship between productivity and Economic Openness.

The economic strength of the United States is owed to the fact that the country's institutions were designed so that the success of the individual would feed into the success of society, and vice-versa. The conception that work is good remains ingrained in the American psyche nearly four hundred years after the Mayflower landed at Plymouth Rock. The ubiquitous lemonade stand speaks to how, from a very young age, Americans are taught to value entrepreneurship.

The values of keeping markets open and free for the benefit of entrepreneurs and new businesses have been relatively stable over time. Little about the fundamental structure of the U.S. economy has changed since the New Deal, although there have been periods of stagnation and the nature of capital formation has shifted. This is perhaps its single greatest strength: entrepreneurs and their investors are confident that the business environment will not shift dramatically between Republican and Democratic administrations. The tone and terminology may vary greatly from politician to politician, and from party to party, but those who have been handed the reins of power over the past ninety years have had a remarkably similar conception of the precepts of American wealth and prosperity.

The current administration came to power in part because many Americans felt disenfranchised by the narrowness of outlook of the Republican and Democratic parties. The President has declared his intention to ‘protect’ those left behind by the very policies that created the American century and transformed the United States into the wealthiest country in the world; he acknowledged, critically, that the might of the American economy is not cost-free.

While observers do not all agree on the nature and expected effects of the current administration's policies on immigration and trade, it seems clear that the policies are a departure from the established conception of how American prosperity is created. Two top priorities of this administration – limiting immigration, and erecting tariff barriers to trade – stand in stark contrast to the posture of openness that the country adopted in the wake of the Second World War.

These differences of opinion have also made manifest a quietly-understood fact of life in Washington: for decades, the legislature has ceded an increasing amount of control to the executive. This speaks to the expectation of each party that, when it inevitably lost power, its successors would choose to interpret the law in a broadly similar manner. This is no longer the case, and notable efforts are underway in both the House and Senate to claw back governing authority, particularly on trade policy.

Maintaining American prosperity, which is built on a bedrock of Economic Openness, will require redirecting attention to the future, rather than the past. The American economy is strong, but not strong enough to turn back the tide of globalization; it must instead find a way to make globalization work for all of its citizens.

EXECUTIVE SUMMARY

The United States is the ninth highest-ranking country in the world for Economic Openness

This report is part of a series of case studies examining the links between a nation's Economic Openness and prosperity, informed by the insights generated by our Global Index of Economic Openness.

We assess the extent to which they have four fundamental characteristics of open economies:

- **Market Access and Infrastructure**, such that products and services can be easily produced and delivered to customers;
- **Investment Environment**, such that domestic and foreign sources of finance are widely available;
- **Enterprise Conditions** that ensure markets are contestable and free from burdensome regulation;
- **Governance** that is underpinned by the rule of law, as well as government integrity and effectiveness.

Our analysis indicates a clear link between the extent to which a country's economy exhibits these characteristics and its productive capacity (see the Global Index of Economic Openness). This link is supported by a long history of academic literature, and can also be seen in the economic histories of those countries that have achieved a high level of economic wellbeing.

According to these measures, the United States is the ninth highest-ranking country in the world for Economic Openness. The sheer size and depth of the United States economy as a single, domestic trading bloc enjoying near-frictionless interstate trade confers a significant competitive advantage. Increased domestic production of energy (global rank: 7th) has boosted competitiveness across the economy as a whole. American businesses remain entrepreneurial and agile, willing and able to grasp new opportunities and ways of thinking and working. Trade and business in the United States is enabled by effective governing institutions (10th). Strong, enforceable intellectual property rights (14th) create the basis for a high-value virtual economy. Businesses in the U.S. have ample access to venture capital (1st), skilled workers (1st), and efficient dispute settlement mechanisms (8th). Access to funding fuels entrepreneurship and new ventures that spawn innovation, jobs and prosperity.

However, the U.S. economy is not as open as it could be. One conclusion of our study is that the United States has historically benefitted from being open to the world in terms of trade, competition, capital, and workers. Measures being implemented to restrict that openness will not improve American economic prosperity. There are also key points of weakness in terms of domestic competition. Regulatory capture at the federal level has led to restrictions

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to market entry for key consumer industries, particularly mobile phone telephony (20th) and broadband providers (25th). A more 'natural' barrier to entry exists in the high compliance costs of federal regulations (31st), which favour larger corporations and incumbents who have the resources to devote to such costly activities.

Consistency was a key ingredient in the American economic dominance of the latter half of the twentieth century

Our key findings are as follows:

— The fundamentals of the American economy (Market Access and Infrastructure, Investment Environment, Enterprise Conditions, and Governance) are strong.

— Historically, those fundamentals have existed almost independently of Congress or presidential administrations; public policy has an impact, but it is often delayed, and the regulatory structure of the economy has (legally speaking) changed very little since the New Deal. This consistency was a key ingredient in the American economic dominance of the latter half of the twentieth century.

— The current administration's antipathy towards Economic Openness has laid bare the extent to which Washington has relied upon norms, rather than laws, to keep the economy on an even keel. Legally speaking, very little has changed, but the enforcement and interpretation of existing laws is markedly different.

- The major weaknesses of the American economy stem from regulatory capture. There are key sectors (e.g., energy, roads, civil aviation, telecoms, internet service providers) that are heavily regulated by the federal government. The dominant players in those sectors have succeeded in limiting competition through extensive lobbying efforts. Barring these sectors, the domestic economy is highly competitive and contestable.
- Distortions in those key sectors mean that Americans pay above-market rates for everything from mobile phone services to domestic airline fares. Fixing these distortions would be, from a cost perspective, relatively simple to fix, as they are regulatory in nature and could largely be solved by broadening competition or simplifying compliance measures.
- While the U.S. has a large number of non-tariff barriers (NTBs) recorded by the WTO, these should be understood primarily as part of a cohesive regulatory regime developed and designed for a U.S. market, rather than as specific competition-distorting measures.

MARKET ACCESS AND INFRASTRUCTURE (U.S. RANK: 6TH)

- Communications infrastructure has key gaps in large swaths of the middle of the country. More competition is needed among the big private broadband players to reduce consumer pricing and improve coverage.
- The United States is close to becoming energy self-sufficient, thanks in large part to fracking technology. Its energy reliability is hampered by an aging electrical grid.
- Transport infrastructure for road, rail, air, and sea is extensive and fit for purpose; but like energy infrastructure, it is aging. Repairing and replacing that infrastructure will require new modes of funding, likely in the form of public-private partnerships.
- The current administration does not believe, as much as previous administrations, that openness to trade or foreign labour are key components of American prosperity.

INVESTMENT ENVIRONMENT (U.S. RANK: 6TH)

- Property rights are firmly established, providing good investor protection and perpetuating a virtuous circle of investment and return. Strong intellectual property protections underpin the highly lucrative knowledge economy.
- The U.S. is the largest recipient of foreign direct investment (FDI) in the world, receiving $275 billion in 2018. These funds indicate a high degree of global confidence in the American economy.
- The U.S. is also home to the world's deepest capital markets, providing a constant stream of domestic investment for entrepreneurs.

- However, the majority of private investment is invested in a handful of coastal hotspots (New York, Boston, and the San Francisco Bay Area). Impetus to invest in areas such as smaller cities in the Midwest has been hampered by post-global financial crisis regulation designed to tamp down on dangerous lending activities.

ENTERPRISE CONDITIONS (U.S. RANK: 2ND)

- Healthy competition is encouraged by anti-trust and anti-monopoly regulation, and while not universal, it is broader than in nearly all other countries.
- This competition is hampered by heavy regulatory compliance requirements, which disadvantage smaller businesses who have to devote a larger proportion of their resources to these compliance costs, and can therefore be priced out of competing.
- The large talent pool is a major contributor to the strength of American enterprise; the presence of hundreds of the world's top universities provides a natural incubator for future companies and business leaders.
- However, that talent pool is constricted by increasingly complex and unpredictable immigration policies and varying occupational licencing requirements, which create an artificial barrier to movement between states.

GOVERNANCE (U.S. RANK: 19TH)

- In recent decades, the legislature has ceded an increasing amount of governing authority and discretion to the executive branch.
- This erosion of legislative control had its foundation in the premise that the scope of decision-making in the executive branch would be limited by a common set of governing norms.
- The decision to place an increasing amount of governing authority in the executive branch also had the unintended consequence of broadening the scope of the regulatory state, and the possibility of regulatory capture through lobbying activities.
- Those lobbying activities contribute to the continuing public erosion of trust in the body politic.

INTRODUCTION

The Legatum Institute's mission is to create the pathways from poverty to prosperity, by fostering open economies, inclusive societies and empowered people. Our work is focused on understanding how prosperity is created, and providing the research, ideas, and metrics to help leaders make informed choices.

We believe that prosperity is the result of economic and social wellbeing working together. This report is part of a series examining Economic Openness around the world. Our definition of Economic Openness in this report is broad, and has been developed from decades of established academic theory and in conjunction with leading thinkers on this issue.[1]

As we will explore in this report, Economic Openness is about more than just trade and regulation - it is about the wider conditions that exist in a country that can either help or hinder that country's economy. We have chosen the United States as it is both an example of a well-established high-performing economy, but also one very much under the spotlight.

The analysis of the United States' performance in this report focuses on what we consider to be the key drivers of economic wellbeing across the world

As part of this series, we have also published a Global Index of Economic Openness, providing rankings and analysis of the performance of the different nations of the world. Subsequently, we will provide a further ten in-depth case studies of countries at a range of stages of economic development.

The analysis of the United States' performance in this report focuses on what we consider to be the key drivers of economic wellbeing across the world.

Market Access and Infrastructure measures the quality of the infrastructure that enables trade (Communications, Transport and Resources), and the inhibitors on the flow of goods and services to and from a country's trading partners. Where markets have sufficient infrastructure, few barriers to trade, and smooth border clearance, commerce can flourish. Such trade leads to more competitive and efficient markets, enabling new products and ideas to be tested, funded, commercialized and ultimately benefiting consumers, through a greater variety of goods at more competitive prices.

Investment Environment measures the extent to which investments are protected adequately through the existence of Property Rights, Investor Protections and Contract Enforcement, and also the extent to which domestic and international capital (both debt and equity) is available for investment. The more a legal system protects investments, for example through Property Rights, the more that investment can drive economic growth.

Enterprise Conditions measures how easy it is for businesses to start, compete, and expand. Contestable markets with low barriers to entry are important for businesses to innovate

1. We have benefitted from the input of 40+ advisors. Full details can be found on www.li.com.

and develop new ideas. This is essential for a dynamic and enterprising economy, where regulation enables business and responds to the changing needs of society.

Governance measures the extent to which there are checks and restraints on power and whether governments operate effectively and without corruption. The nature of a country's Governance has a material impact on its prosperity. The Rule of Law, strong institutions, and Regulatory Quality contribute significantly to economic growth, as do competent governments that enact policy efficiently and design regulations that deliver policy objectives without being overly burdensome.

Defining Economic Openness and its positive effects on prosperity is now a time-sensitive task. The benefits of globalization and Economic Openness have been questioned in the wake of the global financial crisis. We continue to see the impact of the crisis on the public debate ten years on, in the rapid rise of nationalism and populist politics across the western world. Yet globalization continues apace. The degree of connectivity, the exchange of ideas, and the levels of cross-border trade and commerce have fully recovered in the decade since the crisis. Trade between communities, countries and regions continues to spread innovation and transfer knowledge, to boost productivity and ultimately foster economic growth. But there is a question as to whether the level of international trade will outpace overall economic growth in future (thereby enhancing the spread of innovation), or merely keep pace with overall output.

One of the choices for policymakers who are seeking to ensure sustainable prosperity is to resist protectionism and instead reinvigorate the trade liberalization agenda. In the aftermath of the crisis, when global trade flows slowed dramatically, many governments in both developed and developing countries contemplated or were pushed into using trade policy instruments, especially in the form of non-tariff measures, to protect their domestic industries and producers. The danger of "beggar-thy-neighbour" protectionist policies became a realistic possibility again. Happily, initial fears of a mutually damaging protectionist war in response to the economic crisis have not yet materialized, largely thanks to the strength of the rules-based multilateral trading system.

ANALYSING THE UNITED STATES' PERFORMANCE

We have structured this case study in terms of the four pillars outlined above: Market Access and Infrastructure, the Investment Environment, Enterprise Conditions, and Governance. We will examine past performance, present conditions, and identify how the government might strengthen opportunities and neutralise potential threats moving forward.

MARKET ACCESS AND INFRASTRUCTURE	INVESTMENT ENVIRONMENT	ENTERPRISE CONDITIONS	GOVERNANCE
• Communications • Resources • Transport • Border Administration • Open Market Scale • Import Tariff Barriers • Market Distortions	• Property rights • Investor Protection • Contract Enforcement • Financing Ecosystem • Restrictions on International Investment	• Domestic Market Contestability • Environment for Business Creation • Burden of Regulation • Labour Market Flexibility	• Executive Constraints • Political Accountability • Rule of Law • Government Integrity • Government Effectiveness • Regulatory Quality

Figure 1: The structure of the pillars and component elements used to analyse Economic Openness.

The following sections examine in detail the United States' performance across the four areas and the discrete elements that constitute our measure of Economic Openness. Our assessment of the United States is based on its rankings in global datasets from sources such as the World Bank, World Economic Forum and International Monetary Fund. To contextualize the U.S. score, we include comparisons with European Union countries. We hope that this broad-brush SWOT analysis will be of use to policymakers elsewhere who might seek to draw lessons from the United States' economic prosperity.

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MARKET ACCESS AND INFRASTRUCTURE (U.S. RANK: 6TH)

An environment supportive of trade and commerce will allow new products and ideas to be tested, funded, commercialized, and delivered easily to customers. Our Market Access and Infrastructure pillar comprises both the critical enablers of trade (Communications, Transport, and Resources) as well as the inhibitors (Border Administration, Open Market Scale, Import Tariff Barriers, and Market Distortions).

The benefits of free trade are often explained in terms of Ricardian comparative advantage and enhancing consumer choice. Trade empowers individuals and encourages competition. Offering choices to consumers and businesses about which products, services, and ideas they can buy domestically and internationally is at the core of free trade.

Equally important is the role that trade provides in communicating new ideas and raising productivity.[1] Competition from international trade ensures that even when a business does export, it is forced to respond to new ideas from the increased competition in domestic markets.

U.S. SWOT Analysis of Market Access and Infrastructure

STRENGTHS	WEAKNESSES
• Size and depth of domestic trading bloc allows competitive advantage and benefits of Economic Openness • Innovative companies have driven development of good communications infrastructure across urban America • Close to energy self-sufficiency and net exporter - fracking has delivered low-cost energy, and a significant economic boost	• Aging road system needs new investment to remain fit for purpose • Access to communications technology (broadband) is limited to high density, rather than rural areas that are dark spots • High cost of mobile and internet services compared to other OECD countries • Size of market allows U.S. to set standards in isolation, but this inhibits international trade
OPPORTUNITIES	**THREATS**
• Capturing global opportunities in new industries by setting global standards • Ensure more competition among broadband players across territories to reduce consumer pricing and improve coverage • New approaches to airport infrastructure	• U.S. – China trade war with higher tariffs across sectors, resulting in economic shock and isolationism

1. Edwards, Sebastian. "Openness, productivity and growth: What do we really know?" *The Economic Journal* 108, no. 447 (1998): 383-398.

Trade empowers individuals and encourages competition

Evaluating Market Infrastructure and Access

The infrastructure that enables trade and commerce to operate can be measured by both the critical enablers of trade, predominantly infrastructure, and also inhibitors to access to markets.

The first enabler of trade is **Communications**, including fixed line and mobile telecoms and internet penetration, which facilitate mass participation in the formation, ownership, and monetisation of ideas.

The second enabler of trade is **Resources**, which includes water and energy. We measure both the availability and reliability of these critical elements.

The third enabler of trade is **Transport**, which makes possible both physical trade in goods and trade in services, which often requires the movement of people.

In addition to the enablers of trade, we also assess the policies and procedures that inhibit trade.

The first inhibitor to trade is **Border Administration**, which measures the financial and time cost of the documentation necessary to move goods across a border.

The second inhibitor to trade is **Open Market Scale,** which measures the size of the market to which providers of goods and services have privileged access. Countries with greater access to other markets trade more than those that do not.

The third inhibitor to trade is **Import Tariff Barriers**, which we measure in terms of the trade weighted average tariff goods face when coming into a given country.

The fourth inhibitor to trade is **Market Distortions,** which includes subsidies, taxes, and regulatory barriers.

In the following sections, we review the performance of the U.S. in each of the distinct elements of Market Access and Infrastructure, from Communications through to Market Distortions.

COMMUNICATIONS (U.S. RANK: 28TH)

The United States ranks 28th for the quality of its Communications, well behind most OECD economies. This is due largely to the disparate internet and mobile phone coverage available throughout the United States, which is a factor of both the size of the country and the capture of these markets by a small number of companies.

Where coverage is available, it is good, if more expensive than in comparable OECD countries. It has world-leading internet bandwidth at 94kb per capita, compared with 11kb ten years ago. Average download speeds are fast (55.07 Mbps), but 24 million people have fixed broadband operating at less than 25 Mbps.[2,3] 11% of Americans (roughly 35 million

2. "2018 Broadband Deployment Report" in the matter of *Inquiry concerning deployment of advanced telecommunications capability to all Americans in a reasonable and timely fashion*. (Washington, D.C.: Federal Communications Commission, February 2, 2018).

3. "International Broadband Data Report (Sixth)" in the matter of *International comparison requirements pursuant to the Broadband Data Improvement* Act. (Washington, D.C.: Federal Communications Commission, February 2, 2018).

people) did not use the internet at all in 2018,[4] meaning the U.S. ranks only 44th in the world for the percentage of the population using the internet. The cost of internet services in a sample of five American cities[5] was 3.5 times higher than for comparable services in France.[6]

The market is heavily concentrated, both in terms of ownership and geographic availability. In the broadband market, some 48 million households subscribe to cable companies (about 122 million people), with Comcast and Charter alone maintaining a near-monopoly service over 68 million people.[7] Three of the top five companies with the biggest U.S. capital expenditure in 2017 were broadband providers, investing more than $45 billion.

Furthermore, the large telecom companies have concentrated on developing coverage in urban areas, where the returns from any infrastructure investment are greatest due to the high density of users. Broadband and mobile service coverage is sparse in rural areas. Montana, Mississippi, Arkansas, Oklahoma, Wyoming, West Virginia and Alaska all have large swathes of 'dark' spots without reliable internet.[8] For example, Montana has the worst broadband coverage in the country at 69.2%, compared to New Jersey at 99%. Montana also has the slowest internet speed at 20.3Mbps. New Jersey, on the other hand, has an average speed of 52Mbps – more than twice as fast.[9]

Historic efforts to have local municipal or public-sector bodies undertake the installation of internet connections to poorly serviced areas have had limited success, although technological solutions such as low orbit satellites could hold considerable promise for the future. A recent change in policy has sought to address this deficit. In 2018, the Federal Communications Commission instituted reverse auctions for subsidies to expand broadband service coverage in rural areas, and in March of 2019, it announced an extension to this program.[10]

Such efforts to expand coverage are worthwhile. Poor access to broadband in rural communities is limiting SMEs' access to online tools, such as sales platforms, finance apps, and marketing capabilities, that enable them to grow. Technology is a crucial driver of productivity, and lack of access is a barrier to entry and growth.

RESOURCES (U.S. RANK: 4TH)

Access to reliable and affordable Resources, including water and energy, is crucial for a well-functioning economy. An unreliable energy supply can limit the growth of a potential business and act as an obstacle to effective trade. Our measure of Resources aims to capture the quality, reliability and affordability of a country's energy network, as well as the access to and use of water resources.

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4. Monica Anderson et al. "10% of Americans don't use the internet. Who are they?," *Pew Research Center*, July 18, 2015, https://www.pewresearch.org/fact-tank/2019/04/22/some-americans-dont-use-the-internet-who-are-they/.

5. Roanoke, Virginia; Jackson, Mississippi; Tamp, Florida; Tulsa, Oklahoma; Seattle, Washington.

6. Allan Holmes and Chris Zubak-Skees. "U.S. internet users pay more and have fewer choices than Europeans," *The Center for Public Integrity*, April 1, 2015, https://publicintegrity.org/business/u-s-internet-users-pay-more-and-have-fewer-choices-than-europeans/.

7. Trostle, H. and Christopher Mitchell, "Profiles of monopoly: Big cable and telecom," *Institute for Local Self-Reliance*, July, 2018, https://ilsr.org/wp-content/uploads/2018/07/profiles-of-monopoly-2018.pdf.

8. BroadbandNow Team. "U.S. states with the worst and best internet coverage 2018," *BroadbandNow*, August 14, 2018, https://broadbandnow.com/report/us-states-internet-coverage-speed-2018/..

9. Ibid.

10. Mark Jamison. "The FCC is fixing a rural broadband embarrassment, but work remains," *American Enterprise Institute,* March 18, 2019, http://www.aei.org/publication/the-fcc-is-fixing-a-rural-broadband-embarrassment-but-work-remains/.

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The U.S. is blessed with an abundance of coal, oil, natural gas, and sunlight

The United States ranks fourth in the world for Resources, which includes the availability and reliability of water and energy. The U.S. has an extensive water asset base, and is blessed with an abundance of coal, oil, natural gas, and sunlight.[11] U.S. energy demand is growing more slowly than overall GDP, as the intensity of energy has continued to fall since the first oil crisis of 1973, and is forecast by the United States Energy Information Agency to continue to decline for the next three decades.

The country has become increasingly self-sufficient in energy; in 2017, it produced 89.6% of the energy it consumed, making up the difference with imports of crude oil.[12,13] The U.S. is expected to become a net exporter of energy by 2022.[14] The application of fracking technology is helping to push this drive towards energy self-sufficiency. Energy costs are expected to decline at the local level, driving economic growth.[15]

Although the U.S. has a significant supply of energy resources, the power grid is aging and unreliable, which negatively impacts the reliability of the energy supply and its ability to store energy from renewable sources. The U.S. is ranked only 28th for the reliability of both the water and electricity supply.[16] Recent analysis has found “a significant time trend of increasing annual average number of minutes of power interruptions over time – especially

11. U.S. is ranked 2nd in the world for Gross Fixed Water assets per capita (International Benchmarking Network for Water and Sanitation Utilities), and 7th in the world for installed electricity per capita (United Nations Energy Statistics Database).

12. “The United States uses a mix of energy sources,” *U.S. Energy Information Administration*, May 16, 2018, https://www.eia.gov/energyexplained/print.php?page=us_energy_home.

13. Greenspan, Alan, and Adrian Wooldridge. *Capitalism in America: A history*. (New York City: Penguin Press, 2018).

14. Corrina Ricker. “The United States is projected to become a net energy exporter in most AEO2018 cases,” *U.S. Energy Information Administration*, February 12, 2018, https://www.eia.gov/todayinenergy/detail.php?id=34912.

15. Ed Crooks. “Boom times for U.S. shale oil producers,” *Financial Times,* March 4, 2018, https://www.ft.com/content/2c7f6a38-1d37-11e8-956a-43db76e69936.

16. World Development Indicators, *The World Bank*.

when interruptions associated with extreme weather are included."[17] For example, the largest blackout in North American history occurred in 2003, partially because utility workers in Ohio failed to cut trees often enough, which was not picked up by FirstEnergy Corps because of a software bug.[18] Unaddressed, the damage accelerated into an outage that surged across state lines, reaching six states including Michigan, Pennsylvania, and New York. Ohio has since endeavoured to improve its regulations and supervision of the power grid, but still had the fifth-highest number of outages in 2018.[19]

TRANSPORT (U.S. RANK: 5TH)

Transport underpins the ability for products and people to move efficiently, easily, and reliably. An interconnected freight transportation network contributes to economic growth by supporting resource development and expanding interstate commerce. We evaluate both the quality of physical infrastructure, including road, rail, ports, and air, and also logistical performance, which measures the efficiency of shipping products in and out of a country.

The United States ranks fifth overall for Transport, reflecting the average between high scores in the World Bank's Logistics Performance Index and aging physical infrastructure.[20] Sea transport remains the major mode of transport for U.S. foreign trade. Approximately 69% of U.S. foreign trade was transported by water in 2016, representing 1.4 billion freight tons valued at 1.5 trillion dollars.[21] According to a World Economic Forum survey, U.S. seaport services are ranked fifth in the world for efficiency, due in part to the expansion of several ports on the Western seaboard since 2000 in response to the rise in Asian imports. However, the Jones Act, which mandates U.S.-owned and staffed ships remains the most significant distortion in this sector, restricting competition and raising prices.

Air transport is relatively expensive, and is therefore used only for time-sensitive cargo movement. The U.S. is ranked 15th by the World Bank for the degree of its airport connectivity. Airport infrastructure is aging rapidly. The trend of increasing privatisation, as seen in comparable economies like the UK and Canada, has not yet taken hold in the U.S., further curtailing investment. The Airports Council International-North America (ACI-NA) has recently reiterated what has become an annual call for the urgent investment of $100 billion into airports, facilitated by an adjustment in the Passenger Facility Charge to enable airports to build more facilities.

Rail is the dominant mode of transport for time-insensitive bulk commodities, though it is a niche mode of passenger transport. In terms of cargo, the U.S. has the most extensive rail network in the world. Rail has seen volumes rise slightly, and with new policies aimed at stimulating domestic coal extraction and a return of steel production to the U.S., this trend is likely to continue. However, rail and pipeline carry only 6% of total foreign trade by value.

17. Larsen, Peter H., Kristina H. LaCommare, Joseph H. Eto, and James L. Sweeney. "Recent trends in power system reliability and implications for evaluating future investments in resiliency," *Energy* 117 (2016): 29-46.

18. Scott DiSavino. "Ten years after NE blackout, U.S. power grid smarter, sturdier," *Reuters*, August 12, 2013, https://www.reuters.com/article/us-blackout-anniversary/ten-years-after-ne-blackout-u-s-power-grid-smarter-sturdier-idUSBRE97B00020130812.

19. "Blackout tracker: United States annual report 2018," Eaton, 2018.

20. *World Bank Logistics Performance Index*, (Washington, D.C.: World Bank, 2018).

21. Michael J. Sprung et al. "Freight moved in domestic and international trade," chap. 2 of *Freight facts and figures 2017*. (Washington, D.C.: Bureau of Transportation Statistics, October 13, 2017).

Finally, road transport carries the largest value and volume of trade and transport. The U.S. has the world's most extensive road network at 6.7 million kilometres, although the country's vastness means that it is ranked only 48th for road density.[22] The road network, which was largely built in the boom years following the Second World War, increased in size by 2.1% between 1990 and 2000, yet road travel increased by 28.9% in that same period.[23] In a World Economic Forum survey, the U.S. ranked 12th for the quality of its roads, and the task today is maintenance of the existing network. The scale and cost of this is difficult to underestimate. The repair of the current network would run into the trillions of dollars, without which further trillions in economic growth could be lost.[24]

In spite of these challenges, motor vehicles remain the most popular mode of transport in the United States for both people and cargo. Trucks transport 67.9% of goods by value (8.9% growth on 2017) and 73% by cargo weight.[25] The trucking industry generated $700 billion in annual revenue in 2017, 79.3% of the nation's freight bill.[26] The cost of freight transport is likely to fall in the coming years. Labor accounts for 45% of total freight cost, and logistics firms are looking at a range of technologies that could reduce costs.[27] Driverless truck technology is already being tested by Toyota, GM, and Volvo.[28]

BORDER ADMINISTRATION (U.S. RANK: 17TH)

Inefficient and slow bureaucratic trade barriers limit the effectiveness, efficiency, and dynamism of economies, with greater barriers often connected to corruption and cronyism. Our measure of Border Administration considers the time and cost of a country's customs procedures.

While the U.S. is ranked 10th in the world for the efficiency of its customs clearance process, it performs less well in terms of the time and cost incurred complying with border regulations and procedures.[29] Countries very reliant on trade, such as Singapore, have much smoother processes, as does Sweden which has a land border with Norway comparable to that between the U.S. and Canada. Nonetheless, significant progress has been made in the last 25 years to remove a large portion of paper-based processes, with the elimination of multiple data-entry and duplicated application forms.[30]

22. Road density is skewed in favour of the Northeast, with far fewer highways crossing through the western half of the United States. States like Illinois, Pennsylvania, and New York have far more highways and intersections of highways than Nevada or the Dakotas.

23. National Research Council. "History and status of the U.S. road system," chap. 2 of *Assessing and managing the ecological impacts of paved roads.* (Washington, D.C.: The National Academies Press, 2005).

24. American Society of Civil Engineers. *Failure to act: Closing the infrastructure investment gap for America's economic future*. (Reston, VA: ASCE, 2016).

25. "May 2018 North American freight numbers," *Bureau of Transportation* Statistics, July 25, 2018, https://www.bts.gov/newsroom/may-2018-north-american-freight-numbers.

26. *ATA American trucking trends* 2018. (Arlington: American Trucking Association, 2018).

27. Daniel Veryard, and the International Transport Forum. *Managing the transition to driverless road freight transport.* (Paris, OECD Publishing, 2017).

28. Peter Campbell. "Trucks headed for a driverless future," *Financial Times*, January 31, 2018, https://www.ft.com/content/7686ea3e-e0dd-11e7-a0d4-0944c5f49e46.

29. World Development Indicators. *The World Bank*.

30. The Wilson Center. "Beyond preclearance: The next generation Canada-U.S. border." *Beyond Preclearance Coalition*, October 5, 2018.

The Automated Commercial Environment is now the primary system for processing trade-related import and export data required by government agencies, with Customs and Border Protection reporting that by 2017 it had resulted in a 33% reduction in wait times.[31]

The explosion of e-commerce has created new challenges for Border Administration, and it has been reported that the U.S. Customs and Border Protection service is facing a challenge with the increased number of shipments crossing borders, especially those qualifying under the duty-free de minimis level.[32] Cross-border traffic volumes are expected to continue to grow, with some estimating a doubling across all modes in the next 20 years.

In response to this challenge, there are extensive efforts underway to develop smoother systems of pre-clearance. The federal government is currently working with the Canadian government under the aegis of the bi-national Beyond Preclearance Coalition to explore public-private options to further developing the U.S.-Canada border clearance systems.[33]

OPEN MARKET SCALE (U.S. RANK: 15TH)

The size of the economic opportunity for producers is constrained by the scale of the domestic and international markets that are open to them. Tariffs on goods faced by exporters in many countries can prevent those firms from selling goods, inhibiting their ability to compete in the global market. We measure the extent to which producers have access to domestic and international markets unhindered by tariffs, and the tariffs faced in destination markets.

The U.S. ranks 15th in the world for Open Market Scale, which measures the size of domestic and international markets available on a tariff-free or reduced tariff basis for domestic producers. The sheer size of the United States as a domestic market, combined with its extensive free trade agreements, such as KORUS and USMCA, means that American producers have the 11th most open access to goods markets, and the 10th most open access for services. On the other hand, at 4.9%, the average tariff faced by U.S. exporters in destination markets is one of the highest in the world.[34]

While the U.S. market access for goods and services is wide, recent years have seen setbacks to trade liberalisation efforts on three major fronts: the failure of the Doha Round of the WTO, and the administration's decision to withdraw from both the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). Trade negotiations between the U.S. and the European Union are shortly to be resumed, under a different format (and with different negotiating priorities) to TTIP.

Forgoing these agreements represented a major loss to U.S. producers; farmers, in particular, have been hurt by the missed opportunity for exporting to Japan and other large markets, which have historically employed a high level of tariffs for agricultural goods. [35] Producers

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31. U.S. Customs and Border Protection. "Realizing the single window," August, 2017, https://www.cbp.gov/sites/default/files/assets/documents/2017-Aug/ACE%20Accomplishments%20Infographic.pdf.

32. Eric Johnson. "E-commerce's package explosion challenges U.S. customs," *JOC*, June, 2011, https://www.joc.com/regulation-policy/customs-regulations/us-customs-regulations/e-commerce%E2%80%99s-package-explosion-challenges-us-customs-cargo-processing_20180611.html.

33.The Wilson Center. "Beyond preclearance: The next generation Canada-U.S. border." *Beyond Preclearance Coalition*, October 5, 2018.

34. Trade-weighted tariffs: International Trade Centre, Market Access Map database, http://www.macmap.org/; accessed via German Castro Bernal. "The global enabling trade report 2016 A," World Economic Forum (2016).

35. James Politi. "Robert Lighthizer aims to tackle Japan as U.S. farmers suffer," *Financial Times,* March 18, 2019. https://www.ft.com/content/f1ac531e-497a-11e9-8b7f-d49067e0f50d?sectionid=world.

from other countries that have recently benefited from preferential tariffs with Japan are now taking market share from U.S.

Farmers have also suffered from the President's 'trade war' with China. When the President imposed tariffs on $50 billion worth of Chinese goods, Beijing retaliated by boycotting America's biggest farm export – soya beans – and buying Brazilian soya instead. China now buys 70% of the produce of Cofco International, the largest Brazilian exporter of soya, an increase of 40% in 3 years. China is also investing in Brazilian soya infrastructure, including warehousing and distribution hubs to safeguard future supply, much to the detriment of American farmers, particularly in states such as Illinois, Iowa, and Minnesota.

IMPORT TARIFF BARRIERS (U.S. RANK: 44TH)

Typically, tariffs to trade raise the price of products and reduce the volume of trade, creating barriers between people and the true market value of goods. We evaluate the average applied tariff rate, the complexity of tariffs, and the share of imports free of tariff duties. The U.S. ranks 44th in the world for Import Tariff Barriers. In spite of its role as a key architect of the global trading system in the wake of the Second World War, U.S. tariffs remain stubbornly high for certain products, with apparel facing some of the highest. In a game of averages, the U.S. performs well; in 1949, the United States charged an average tariff of 33.9 %; today it is 3.5 %. The European Union now charges an average of 5.3 %, while China's is 9.5 %.

However, for those products where it still charges tariffs, barriers to entry are extensive. The U.S. ranks 33rd in the world for its applied tariff rates, and with only 77% of imports free of tariff duties, it ranks 58th. This problem has been exacerbated over the past two years by the Trump administration. A 25% tariff on imported steel and aluminum was recently imposed, with the stated objective of reinvigorating domestic production and protecting U.S. jobs from low-cost, state-subsidised Chinese steel, particularly in Midwestern states such as Michigan, Illinois, Ohio, and Indiana, which have some of the biggest steel mills in the country.

The volume of steel imports from the countries hit by these tariffs and quotas was 36% lower in June 2018 than a year previously, with aluminum imports falling by 27%. In short, the tariffs had an impact. Metal prices in the U.S. have risen as a result, as has domestic production, with U.S. steelmakers now using 78% of their capacity, not far off the administration's goal of 80%. However, before this can be considered a policy success, two points must be noted. Firstly, raw material costs and metal prices were rising in price due to constricted supply and a stronger economy, so underlying factors of supply and demand are also responsible for improvements to the market. Secondly, higher prices are a burden for U.S. businesses that use metals and they account for a far higher share of American jobs than raw material processing. An example would be domestic beer producers such as Molson Coors, headquartered in Colorado, who call the new, higher prices of domestic aluminum 'the Midwest premium'.[36]

36. Matt Phillips. "As trade fight escalates, beer makers fret over the cost of aluminum," *The New York Times*, June 15, 2018.

For the U.S. economy as a whole, imposing tariffs on steel and aluminum is a bad idea. As economist Paul Krugman has said:

> *"There's no way to bring back all those steel plants and steel jobs, even if the United States stopped all imports. Partly that's because a modern economy doesn't use that much steel, partly because we can produce steel using many fewer workers, partly because old-fashioned open-hearth plants have been replaced by mini-mills that use scrap metal and aren't in the same places."*[37]

A further $200 billion of Chinese imports, including low-margin goods like clothing, will be subject to new U.S. tariffs. The President is also threatening tariffs on imports of European cars, to level the tariffs on the import of American cars into Europe and to encourage European car manufacturers to make more in America.

MARKET DISTORTIONS (U.S. RANK: 7TH)

Market Distortions hinder one of the most compelling and powerful forces of the market: fair competition. The price of goods changes from their true value through the interference of the state, resulting in a society which supports inefficient and ineffective industries. These distortions can arise from both regulatory restrictions and also subsidies, which damage the prosperity of a nation as the finite resources of the state are being inefficiently managed and diverted from projects that can deliver much greater benefits to society. Our measure of Market Distortions captures how competitive markets are disrupted by subsidies, taxes, and non-tariff measures.

By their very nature, Market Distortions can be difficult to measure, and broader conclusions often have to be drawn from proxy measures. For example, the World Economic Forum's Global Competitive Index ranks the U.S. seventh for both the prevalence of non-tariff barriers and the distortive effect of taxes and subsidies. According to the World Trade Atlas, the United States is the world's most prolific user of non-trade barriers.[38] Furthermore, at 3.8% of GDP, the scale of energy subsidies is such that the U.S. is ranked only 90th in the world for this distortion.

Due to the size of the domestic markets in the United States, American firms have had the scope for considerable expansion and growth without having to look to international markets. The result has been that regulators have set national standards with little reference to the needs of international business. Examples abound, from U.S. GAAP accountancy standards, to video formatting, to food standards. Hence, while there may be large numbers of non-trade barriers, their distortionary impact is less than might be observed in other countries.

37. Paul Krugman. "Paul Krugman explains trade and tariffs," *The New York Times*, March 15, 2018, https://www.nytimes.com/2018/03/15/opinion/paul-krugman-aluminum-steel-trade-tariffs.html.

38. Erdal Yalcin et al. *Hidden protectionism: non- tariff barriers and implications for international trade.* (Munich: IFO Institut, 2017).

CONCLUSION

The United States is in a strong position with regards to the enablers of trade, but performs less well in terms of the inhibitors of trade.

Its physical infrastructure for Communications, Resources, and Transport requires significant investment, and more considered thought about how that investment might be achieved. The communications sector is dominated by only four firms, which charge high prices and claim to be unable to expand service economically in rural areas. Exposing the regional monopolies that these companies hold to more competition might be a good first step in expanding coverage and reducing costs for consumers.

Exploring new ways of raising revenues for infrastructure improvements to the energy grid and transportation networks is also necessary. Revisiting the 'natural monopolies' of the energy sector, which often see only one player in a state or metropolitan region (e.g., the Potomac Electric Power Company, or PEPCO, in the DC metro area) would also be worthwhile as a stimulus for both improved pricing and reliability.

By some estimates, the United States needs to invest over $2 trillion by 2025 to address critical deficiencies in the nation's infrastructure, including roads, railroads, waterways, water systems, dams, airports, electrical grids, waste management systems, park systems, and educational infrastructure. Failing to repair and update these systems by 2025 could result in nearly $4 trillion in lost GDP, $7 trillion in lost business revenue, and 2.5 million lost jobs, according to the American Society of Civil Engineers.[39]

The funding crunch of certain modes of transport such as aviation could be eased by increased engagement of private sector finance. Public-private partnerships are widely used in Europe, though they are not popular in the U.S. However, they do provide an option to promote the enormous efficiencies that private operators can bring, and the benefits of risk transfer from governments to investors, is a proven method of funding large infrastructure projects in other markets. However, local jurisdiction over airports means that fundamental change, such as private sector involvement, is enormously complex and involves a range of stakeholders, such as unions, mayors, city councils, and state governors, whose interests don't necessarily align.

Countries with more expansive free trade agreements (FTAs) tend to engage in more international trade than those without such FTAs,[40] and there is an opportunity for the U.S. to capture the benefits of increased trade with other countries (or, as in the case of Japan, to recapture them). However, expanding the scale of markets available to U.S. producers will require some movement from the U.S. Trade Representative on the tariff- and non-tariff barriers that other countries' exporters face when attempting to compete in the U.S.

Significant improvements are also available – virtually free of charge – to reduce the inhibitors of trade, in terms of Border Administration, Import Tariff Barriers, and Market Distortions. These are primarily political challenges, and they have become more acute in the wake of the anti-trade sentiment that swept through the country during the 2016 election (and saw the candidates from both major parties promise to exit TTIP and TPP, and seriously reconsider existing agreements).

39. American Society of Civil Engineers. *Failure to act: Closing the infrastructure investment gap for America's economic future*. (Reston, VA: ASCE, 2016): 7.

40. Accounting for the fact that smaller countries will generally engage in a higher share of international trade than larger countries, whose domestic markets present more opportunities.

INVESTMENT ENVIRONMENT (U.S. RANK: 6TH)

Ideas and businesses need investment to develop and grow effectively. Long-established businesses and new entrepreneurs alike need investment, and investors need the protection and confidence to back them. If investors do not have secure property rights, investment becomes scarce.

The growth in international financial market sophistication over the last four decades has been considerable. Economists' understanding of the role of capital in economic growth and prosperity has also grown over this period.[1,2] A good Investment Environment will ensure that domestic and foreign financing is available for commercial ventures, allowing micro-enterprises to grow into Fortune 500 companies.

The U.S. performs well in this pillar, driven primarily by a very strong Financing Ecosystem, though it is hampered by being comparatively less open to international investment than many comparable economies.

U.S. SWOT Analysis of Investment Environment

STRENGTHS	WEAKNESSES
• Property rights are widely respected • Patents and strong IP protection are drivers of innovation and high skilled, high wage jobs • Deep and liquid financial markets provide a wide range of investment options for business and products for investors • Huge depth and breadth of available funding for business – highly developed VC market • Financial markets remain highly innovative and responsive to business needs	• Highly litigious environment and expensive legal costs can place risks on selected businesses activities • Financing Ecosystem limited beyond the coastal zones
OPPORTUNITIES	**THREATS**
• Highly dynamic firms continue to generate opportunities to draw in investment capital, savings and wealth from the rest of the world • More private investment in young companies, beyond hotspots of San Francisco /Silicon Valley and New York Metro regions	• Trade wars may result in preference for local financing solutions • Shift in policy and greater State scrutiny towards foreign direct investment might impact FDI inflows

1. Anne O. Kreuger. "Financial markets and economic growth," *IMF*, September 28, 2006, https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp092806.

2. Stanley Fisher. "The importance of financial markets in economic growth" (speech, Campos de Jordao, Brazil, August 21, 2003), Citigroup. https://piie.com/fischer/pdf/fischer081103.pdf.

Evaluating Investment Environment

The structural aspects of how to measure an Investment Environment reveal two overriding concerns: how effectively investments are protected, and whether the infrastructure to facilitate the flow of investment to opportunities is present.

We measure the extent to which **Property Rights** are protected. The more Property Rights are genuinely protected and enforced in an economy, the more that investment can drive economic growth. Where ideas are welcome and legally protected, they can be backed by investment.

Investor Protection is one of the key responsibilities of any government that wishes to attract any sustained investment, either foreign or domestic. Investor Protection ranges from legal safeguards to the availability and disclosure of a company's financial performance.

An investor also needs to be confident that commercial agreements can be upheld. Hence, the quality of **Contract Enforcement** is also a key concern.

We measure the quality of a given Investment Environment through analysis of a number of indicators of the health of the **Financing Ecosystem**, including the availability of equity and debt financing, and the availability and cost of bank lending.

Finally, we assess the **Restrictions on International Investment**. The benefit of international investment goes beyond supporting the accumulation of capital - it also facilitates the transfer of technology, know-how, and skills, while helping local firms access foreign markets.

In the following sections, we review the performance of the U.S. in each of the distinct elements of Investment Environment, from Property Rights through to the Restrictions on International Investment.

PROPERTY RIGHTS (U.S. RANK: 18TH)

Property Rights are the key institution that make it possible to accumulate wealth and effectively participate in commerce

Property Rights are the key institution that make it possible to accumulate wealth and effectively participate in commerce. Where Property Rights are weak, people avoid taking risks, and this has a substantial impact on investment and the levels of effective entrepreneurial activity and wealth accumulation. The risks to Property Rights range from expropriation to limits on repatriations of profits and restrictions on the sale or transfer of assets. Our measure of Property Rights captures how well rights over land, assets, and intellectual property are protected.

The U.S. ranks 18th in the world for Property Rights. Its procedures are more bureaucratic than in many other developed nations such as Denmark, Switzerland, and even Estonia, especially for issues around land (the transfer and administration of property and land disputes are especially inefficient). For example, with four procedures required to register property, it is ranked 29th by the World Bank, whereas countries such as Norway and Portugal require just one.

However, the high level of protection of intellectual property is an important comparative strength of the United States, with the World Economic Forum ranking it 14th in the world. In recent years, there has been an increase of private sector research and development. This has led to higher levels of innovation, greater high-value sector job creation, and the promotion of cutting-edge clinical research.

Intellectual property protection is especially important for knowledge industries, particularly pharmaceutical development and software engineering, where research and development dominate industry costs. It should be no surprise, therefore, that the U.S. is a world-leader in both fields. The patent system is a powerful incentive for innovation that is essential for attracting investment for nascent ventures, especially in pharmaceuticals.

Intellectual property-intensive industries account for 27.9 million direct jobs and 17 million indirect jobs (roughly 35% of all U.S. employment) and 38.2 % of the U.S. GDP in 2014.[3] Moreover, jobs in these fields pay on average 46% more than those in the wider economy, underscoring the importance of intellectual property on U.S. jobs and economic growth.[4]

INVESTOR PROTECTION (U.S. RANK: 8TH)

Investor Protection is key for any country wishing to enjoy sustained economic growth.[5] Our measure of Investor Protection covers a range of indicators that gauge Investor Protection, from expropriation risk to minority shareholder rights. The U.S. ranks 8th in the world for Investor Protection. These protections enable investor confidence, which allow American firms to access large pools of foreign and domestic capital. North America is home to some $36 trillion in financial assets, which represents just over half of global financial assets.[6] This is astonishing, considering that North America as a whole represents less than 5% of the global population.

The United States performs consistently well across a number of key aspects of Investor Protection, including legal protection of shareholder rights, management of debtor's assets, corporate auditing standards, and protections for minority shareholders. Corporate transparency is extremely high in terms of the quantity and quality of information disclosed to shareholders and other stakeholders. Companies with operations in the U.S. must follow the same disclosure practices as U.S. companies.

The most notable aspect of Investor Protection in the United States is the strength of its insolvency framework, which is ranked first in the world by the World Bank. Bankruptcy rules are federal (meaning that they are regulated in the same way throughout the whole of the country), and federal bankruptcy courts have exclusive jurisdiction over bankruptcy cases.[7] During a Chapter 11 bankruptcy proceeding, the court will help a business restructure its debts and obligations. In most cases, the firm remains open and operational. Many large U.S.

3. Antonipillai, Justin, and Michelle K. Lee. *Intellectual property and the U.S. economy: 2016 update.* (Washington, D.C: Economics & Statistics Administration and U.S. Patent and Trademark Office, 2016).

4. Ibid.

5. Rachisan, Paula Ramona, Cristina Bota-Avram, and Adrian Grosanu. "Investor protection and country-level governance: Crosscountry empirical panel data evidence." *Economic Research | Ekonomska Istraživanja* 30, no. 1 (2017): 806-817.

6. Gary Shub et al. "Global asset management 2016: Doubling down on the data," *Boston Consulting Group,* July 11, 2016. https://www.bcg.com/en-gb/publications/2016/financial-institutions-global-asset-management-2016-doubling-down-on-data.aspx.

7. States can decide what real estate and personal property is exempt from bankruptcy. In Florida, for example, a debtor can keep the house and protect equity, unlike in Missouri.

companies file for Chapter 11 bankruptcy and stay afloat; recent examples include General Motors, United Airlines, K-mart and thousands of other corporations of all sizes.

CONTRACT ENFORCEMENT (U.S. RANK: 10TH)

Contract Enforcement is a critical proxy for trust, allowing economies of scale to grow beyond one's immediate circle of associates and family. Delays and costs in resolving contract disputes benefit neither party. Our measure captures both the efficacy and efficiency of a country's system to enforce the rights of a contract holder. The U.S. ranks 10th in the world for Contract Enforcement, allowing consumers and business operators a high degree of confidence that promises will be upheld.

U.S. adherence to law is a key driver of the business environment and ensures Contract Enforcement. However, in terms of the number of procedures, fees, and time taken to enforce a judgement, the United States trails behind many other OECD economies.

The biggest challenge to Contract Enforcement in the U.S. is high legal fees. The American legal system is renowned for being expensive, and is ranked 102nd by the World Bank for legal costs in proportion to claim value. Legal liability costs are equivalent to 1.66% of GDP in the U.S., compared to 0.63 % in the Euro zone.[8]

Many businesses prefer the common law system, as evidenced by the large number of contracts that choose to be governed by U.S. law. The U.S. legal system covers 5% of world's population, but areas covered by U.S. law generate 26% of the world's GDP.[9]

FINANCING ECOSYSTEM (U.S. RANK: 1ST)

The U.S. ranks first in the world for its Financing Ecosystem

The Financing Ecosystem ensures the availability of money for investment from sources including banking and bank debt to corporate debt and more sophisticated financial markets. A wide range of financing options for businesses is also desirable, as each of the basic financing options are better suited for businesses at differing stages of maturity with different revenue and risk profiles. Our Financing Ecosystem measure captures the availability of money, from banking to corporate debt and more sophisticated financial markets. The U.S. ranks first in the world for its Financing Ecosystem. Home to the world's deepest capital market in New York City, American firms have unparalleled access to capital for their investment requirements.

The New York Stock Exchange has the highest domestic market capitalization in the world at $22.923 billion as of November 2018, with the NASDAQ holding the second largest amount at $10.857 billion.[10] By the end of 2015, there were over 4,000 companies traded on either the NYSE or NASDAQ. The depth of liquidity available to listed companies makes this a critical source of funding for research and development and expansion efforts.

8. McKnight, David L., and Paul J. Hinton. *International comparisons of litigation costs.* U.S. Chamber Institute for Legal Reform, June, 2013,

9. "English Common Law is the most widespread legal system in the world," Sweet & Maxwell, November, 2008, https://www.sweetandmaxwell.co.uk/about-us/press-releases/061108.pdf.

10. "Monthly reports: November 2018," *World Federation of Exchanges*, November, 2018, https://www.world-exchanges.org/our-work/statistics?activate=27489!LNrkS5r8eBBGBEA6rAzmKuKJLGEOvpcXa2BLNMs3hy.

In addition to New York, there are five other financial centres in the United States (Boston, San Francisco, Los Angeles, Chicago, Washington D.C.) and a further six in other parts of North America that rank in the top fifty Global Financial Centres Index.[11] These financial centres provide businesses in the United States with a highly advanced Financing Ecosystem that offers the world's broadest range of financial products to fund innovation, ideas and growth.

Publicly traded companies constitute less than 1% of the total number of U.S. firms. The majority of American business are therefore financed privately, or via the debt markets and bank lending. One important source of private financing is the venture capital (VC) market. The World Economic Forum ranks the United States first for venture capital availability, with some 5,536 startup companies raising approximately $100 billion in 2018.[12] According to the Center for American Entrepreneurship, America "is a clear global leader"; five of the top ten cities attracting VC funding are located in the U.S.: San Francisco, New York, San Jose, Boston, and Los Angeles.[13]

U.S. companies also raised a record number of 'mega-round' funding, with 184 companies closing $100 million plus funding. 53 VC backed U.S. companies became unicorns in 2018 with valuations exceeding $1 billion in 2018.[14] IHS Global Insight calculates that in 2005 companies that were once backed by venture capitalists accounted for nearly 17% of America's GDP and 9% of private-sector employment.

Despite the depth of capital markets and flourishing VC scene, the World Bank ranks the U.S. only 20th in terms of access to capital. Nearly half of all U.S. small business (41%) cite a lack of access to capital as the key restriction on growth and directly influences their decisions to hire or fire.

In the years after the financial crisis, financing flows to small businesses across the United States 'weakened considerably'.[15] Elevated supervisory stringency and greater risk aversion by lenders discouraged banks from touching any borrower perceived as risky. The bond and loan markets, where larger businesses flocked for inexpensive debt capital, have little use for sums under $100,000 — which is what most small enterprises need. However, this funding gap has spawned non-bank lenders, payment and e-commerce companies and small business lending operations like OnDeck, Kabbage, PayPal, Square and others. They have grown fast and are lending significant amounts.[16] Typically, these loans have high interest rates – often the equivalent of a 30-40% annual rate – but the sums handed out by this new class of business lender are considerable, providing liquidity to small businesses across America.

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11. Yeandle, Mark, and Mark Wardle. "The global financial centres index," Long Finance and Z/Yen, March, 2019. https://www.longfinance.net/programmes/financial-centre-futures/global-financial-centres-index//.

12. "MoneyTree™ report: Q4 2018," *PwC / CB Insights*, 2018.

13. Florida, Richard, and Ian Hathaway, "Rise of the global startup city: The new map of entrepreneurship and venture capital," *Center for American Entrepreneurship*, October, 2018, http://startupsusa.org/global-startup-cities/report.pdf

14. "Venture pulse Q4 2018: Global analysis of venture funding," *KPMG Enterprise*, January 15, 2019, https://home.kpmg/content/dam/kpmg/us/pdf/2019/01/venture-pulse-4q18-report.pdf.

15. Mills, Karen, and Brayden McCarthy. "The state of small business lending: Credit access during the recovery and how technology may change the game." Harvard Business School General Management Unit Working Paper 15-004 (2014).

16. OnDeck, which started lending in 2008 and is a trailblazer in this area, carries $1.1bn in loans on its balance sheet and originated $650m of loans in the third quarter, up a fifth from the year before. Privately held Kabbage, founded a decade ago, has lent out a total of $6bn, $2bn of that in 2018. The lending division at payment company Square — now five years old — has made $3.5bn in loans so far. The lending unit of PayPal provided $1bn in credit to businesses in the third quarter last year alone. (source: Robert Armstrong. "How online platforms shook small-business lending in America," *Financial Times*, January 29, 2019, www.ft.com/content/5c68d948-1efb-11e9-b126-46fc3ad87c65).

iStock.com/Ivan Chertok

The New York Stock Exchange has the highest domestic market capitalization in the world

Access to capital also varies enormously from state to state. Three states - New York, Massachusetts, and California - received 78% of VC, where the whole of the Midwest had only a 4.6% share.[17] Businesses outside of the main financial centres tend to rely on banks; 48% of business owners in the United States say that banks are their primary source of financing, with 33% reporting that a regional or community bank is their main financer.[18] There are new investment firms and non-bank lenders stepping into this underserved gap. The Rise of the Rest Seed Fund, for example, invests in entrepreneurs and businesses across the United States and claim that some of the most compelling investment opportunities in the next decade will likely emerge from start-ups in cities all over America. Rise of the Rest is investing in companies that will disrupt major industries like food, healthcare, transportation, and agriculture – the industries that have long established ties to regions between the coasts.

Cities with universities, in particular, are seeing increases in early-stage financing. For example, Austin, home to the University of Texas, received 132 first financings in 2016-17, a nearly 40% increase since 2009-10.[19] Boulder, Colorado, home to CU Boulder, leads the way in the relative increase of first-financings; between 2009 and 2013, this college town had no first financings at all, but by 2016-17, the state had 48.[20] While some areas are experiencing increases in first financings, others are experiencing reversals. Detroit, for example, grew from 12 first financings in 2009-10 to 41 in 2013-14, but has since dropped to just 18 in 2016-17.[21]

17. Larry Jacob. "3 trends that prevent entrepreneurs from accessing capital," *Kauffman Foundation*, July 25, 2018, https://www.kauffman.org/currents/2018/07/3-trends-that-prevent-entrepreneurs-from-accessing-capital.

18. Source *American Banker Magazine*

19. Richard Florida. "The winners and losers of America's startup economy," *Citylab*, August 2, 2018, https://www.citylab.com/life/2018/08/the-winners-and-losers-of-americas-startup-economy/566495/.

20. Ian Hathaway. "America's rising startup communities," *Center for American Entrepreneurship*, http://www.startupsusa.org/americas-rising-startup-communities/.

21. Ibid.

RESTRICTIONS ON INTERNATIONAL INVESTMENT (U.S. RANK: 58TH)

International investment has been shown to have a positive overall effect on economic growth. Research suggests that international investment (FDI) is typically more productive than domestic, given the higher risks it faces. The benefit of foreign direct investment is not only the inflow of capital – there is no lack of investment capital available, as noted above – but also the infusion of managerial competence that accompanies such investment. FDI brings healthy competition in the form of product and service innovation, new working practices, and new efficiencies in productivity.

The U.S. ranks 58th in the world for the Restrictions on International Investment, reflecting a mixed policy environment. There is a high prevalence of foreign ownership and limited restrictions on financial transactions, but a combination of increasingly strict rules for FDI and foreign visitors drags down the U.S. rankings in this element.

The U.S. has long been a beneficiary of international investment, not only FDI, but also in terms of discrete investment in capital and broader investment in sovereign assets, like Treasury bonds (or T-bills). Treasury bonds in particular are regarded as one of the safest investments in the world.

The broad balance of capital flows demonstrates the ongoing attractiveness to international investors of a range of American assets. The United States remained the largest recipient of FDI, attracting $275 billion in inflows in 2018 (primarily into manufacturing, especially chemicals), followed by China, with record inflows of $136 billion.

In spite of the prosperity that this investment has brought, the U.S, like many other OECD economies, is shifting its policy frameworks for FDI. More stringent requirements for screening FDI have come into force against a backdrop of greater protectionist rhetoric. The federal government has used ambiguously-worded legislation to insert itself into an increasing number of investment deals. The Committee on Foreign Investment in the United States (CFIUS), in particular, has jurisdiction over "any transaction… by or with any foreign person, which could result in control of a U.S. business by a foreign person". Control exists where the transaction will enable the non-U.S. person, either directly or indirectly, to "determine, direct, or decide important matters" affecting a U.S. business. The FIRRMA Act 2018 has given the federal government wide latitude to prevent foreign control of politically sensitive companies or industries, although many of its provisions are still in pilot mode.[22]

The ability of foreigners to travel and move to the U.S. has also become more restricted. Foreign investment is facilitated by not only enabling investors to visit the country, but also by ensuring key skilled employees can come to work in the U.S. Each year, 14.5 million people apply for some sort of U.S. visa, but there has been a 16% drop in the number of visas granted since 2016.[23] There have also been a set of restrictions and tightening of the procedures for the H-1B visa system, which is the main route for skilled employees to come to the U.S. for time-limited periods.[24]

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22. "M&A watch," Shearman & Sterling, January 25, 2019, https://www.shearman.com/-/media/Files/Perspectives/2019/01/MA-Watch-CFIUS-Update-Jan-2019.pdf?la=en&hash=9FE765F9386DAC5488BD3AD96EF7F7CB85D09A4E.

23. Sewell Chan. "14 million visitors to U.S. face social media screening," *The New York Times*, March 30, 2018, https://www.nytimes.com/2018/03/30/world/americas/travelers-visa-social-media.html.

24. Andy J. Semotiuk. "Recent changes to the H1B visa program and what is coming in 2019," *Forbes*, January 2, 2019, https://www.forbes.com/sites/andyjsemotiuk/2019/01/02/recent-changes-to-the-h1b-visa-program-and-what-is-coming-in-2019/#7e71a8a24a81.

CONCLUSION

The United States enjoys a virtuous circle, where the formation of highly dynamic and innovative firms continues to attract investment capital, savings, and wealth, both from America and the rest of the world. This access to finance, both from capital markets and venture capitalists, provides business with ample funding throughout their life-cycles, from startup, to scaleup, to national and international champions. But investment is not even across the United States, particularly in the startup phase, and is highly concentrated in the metropolitan regions of San Francisco, Boston, and New York, which together receive 75% of all American venture capital.

The rest of the country struggles to access non-bank capital. The spread of more innovative forms of financing to the country's other major cities should be a key priority moving forward, to avoid the further concentration of wealth and prosperity in a few coastal cities. The threat of a 'trade war' with China has further exacerbated these regional inequalities, lowering the incomes of farmers reliant upon the Chinese export market, and manufacturers reliant upon steel imports.

The spread of more innovative forms of financing to the country's other major cities should be a key priority

A shift in policy and greater state scrutiny towards foreign direct investment might damage FDI inflows and investment in global value chains. From the external perspective, there is evidence that the United States is facing several challenges that could risk its attractiveness to international investment on a number of measures. These include: the freedom of foreigners to visit the U.S., capital controls, and the new rules and policies on FDI, as well as tax reforms in the United States that are likely to affect global investment patterns.

The United States is the largest recipient of FDI, attracting $275 billion in inflows in 2018. The size and depth of the domestic market means that impediments to international investment will not have the same impact in the United States as they would on a smaller country, nor be felt in the short term. However, the impact of any reduction to FDI on longer-term investment levels, competitiveness, and innovation, should not be ignored, particularly in light of other countries competing for a share of this investment prize.

To conclude, the U.S. structural shift in policy on FDI, increasing state scrutiny of foreign direct investment in U.S. companies, rising tensions around trade tariffs, and a louder political rhetoric over security risks from Chinese companies, combined with minor restrictions on visas to the U.S. all add up to a hardening climate for foreign investment. While this should not be overstated, it is nonetheless a departure from a traditionally open market stance in the United States. This hardening stance is highly likely to have consequences on future FDI in the U.S., against a backdrop of slowing global FDI.

ENTERPRISE CONDITIONS (U.S. RANK: 2ND)

A healthy economy is a dynamic and competitive one, where regulation supports business, allowing and encouraging it to respond to the changing priorities of society. In contrast, an economy focused on protecting incumbents will enjoy lacklustre growth and job creation. Entrepreneurial activity is one of the key drivers of long-term prosperity, and its importance will only grow as the pace of technological change increases, and the number of people involved in that change rises. Given the pace of change inherent to the information age, a society's ability to react quickly to new firm- and market-level opportunities is critical to its overall Economic Openness.

The U.S. ranking for this pillar is second only to Hong Kong, and it performs particularly well across all the elements in this pillar, other than the Burden of Regulation.

U.S. SWOT Analysis of Enterprise Conditions

STRENGTHS	WEAKNESSES
• Long-standing culture of innovation and creative entrepreneurialism, which has driven widespread economic prosperity • Flexible, dynamic workforce, which has embraced entrepreneurialism and adapted well to changing work environment e.g. shift from manufacturing to gig economy • Large market of consumers happy to spend heavily on new products	• Entrepreneurism outside high-tech and outside the East and West coasts has been struggling to attract sufficient funding, skills, and ICT support • Rising regulation and tax compliance is a burden for smaller businesses in particular • Many Americans left behind by globalization and rising automation
OPPORTUNITIES	**THREATS**
• Impact of tech has a long way to run, even as Moore's law effect fades, impact into wider economy will continue to develop • Spreading of investment capital and skills beyond business and tech clusters in CA, MA, NY more widely across all U.S. cities • Remove interstate barriers e.g. harmonize or remove occupational licenses • More export/international trade for SMEs	• Concentration of markets controlled by small number of super corporates will limit openness and opportunities for innovation and competition • Limiting high-skill entrants to the country will weaken entrepreneurship and competition, as a disproportionate number of startups are founded by immigrants

Evaluating Enterprise Conditions

These factors can, in part, be measured by considering the regulatory and bureaucratic impediments to starting and growing a business and the cultural attitudes of a nation's workforce. We examine the Domestic Market Contestability, the Environment for Business Creation, Regulatory Burdens, and Labour Market Flexibility.

The most critical element for Enterprise Conditions is **Domestic Market Contestability**, which measures competitiveness and openness as the essential stimulators of innovation and efficiency. While there is no such thing as a perfectly contestable market, it has long been understood that there are some basics that are of considerable help, from anti-monopoly policy to limitations on market dominance.[1]

The **Environment for Business Creation** captures the legislation and policies that encourage startups. A supportive business environment is critical. If the framework of enterprise is important, so too are the prevailing views and attitudes of a populace. This entails a number of key market freedoms: an entrepreneurial environment with active entrepreneurism.

We also measure the **Burden of Regulation**. In markets where there is sufficient trust and self-regulation to allow industries and services to focus on innovation and production, it is the role of a good government to ensure regulation does not generate unnecessary administration. Taxation is a necessary part of any society, but while the shape of the optimal tax system has long been debated, the manner in which the tax is raised can be critical, ideally being as simple and non-distortive as possible.[2]

Finally, we measure **Labour Market Flexibility**. While the debate over the degree to which labour markets might be liberalized is unlikely to ever be settled definitively, the evidence is that highly restrictive labour markets do entail costs in terms of facilitating enterprise.[3]

In the following sections, we review the performance of the U.S. in each of the distinct elements of Enterprise Conditions, from Domestic Market Contestability through to Labour Market Flexibility.

DOMESTIC MARKET CONTESTABILITY (U.S. RANK: 1ST)

Where open, fair and competitive markets exist, far more often than not, so too does progress and prosperity. One of the most useful things that governments can do is to ensure that there is competition, both domestic and international, as well as a strong and effective anti-monopoly policy. A fair and effectively enforced competitive market benefits all by helping to stimulate improvements in efficiency and innovation. Our measure of Domestic Market Contestability captures how open the market is to new participants, versus protection of the incumbents. The U.S. ranks first in the world for Domestic Market Contestability. As one of the world's most open and contestable markets, the U.S. combines

1. Baumol, William J., John C. Panzar, and Robert D. Willig. "On the theory of perfectly-contestable markets," chap. 12 in *New developments in the analysis of market structure*. (London, Palgrave Macmillan, 1986): 339-370.

2. Mankiw, N. Gregory, Matthew Weinzierl, and Danny Yagan. "Optimal taxation in theory and practice." *Journal of Economic Perspectives* 23, no. 4 (2009): 147-74.

3. Radulescu, Roxana, and Martin Robson. "Does labour market flexibility matter for investment? A study of manufacturing in the OECD." *Applied Economics* 45, no. 5 (2013): 581-592.

healthy competition with effective and enforced regulation aimed at preventing monopolies. The World Economic Forum Expert Survey ranks the U.S. first for the absence of market dominance, though we discuss exceptions to this in the Communications section of this report.

Key to this market-based competition is an established history of anti-trust legislation and practice, no significant entry or exit barriers for products or investments, and no discrimination based on ownership (state/private, foreign/local) or size, combined with a historical openness to high-skilled immigrants.

Some of those historic strengths have weakened in recent years, but overall, the U.S. market remains highly contestable. The digital economy is a particularly good example of this contestable market, with revenues now approaching $561 billion, having disrupted many established sectors.[4] Companies such as Uber and Lyft have challenged and disrupted traditionally licensed occupations like taxi driving, and forced down prices in areas where they operate. Cab fares in New York City, for example, have declined 23% since Uber entered the market, and the availability of cabs in the outer boroughs has increased.[5] However, the contestability of this market is far from settled, with Uber recently suing the City of New York over recent restrictions on the number of for-hire vehicles in the city.[6]

Such competition is largely absent from certain sectors and markets; occupational licencing is an oft-cited barrier to entry between U.S. states. While only 5% of jobs in the U.S. required a licence in the 1950s, 29% of jobs required a licence by 2008.[7] These licencing requirements are particularly onerous for low-income professions, who tend to be freelancers. 36 states require licencing for makeup artists – and Louisiana requires professional licences for florists, but not opticians.

ENVIRONMENT FOR BUSINESS CREATION (U.S. RANK: 1ST)

Entrepreneurial activity is the manifestation of a healthy and dynamic society, in which ideas are constantly being created, developed, and tested. It is important that the process of turning ideas into success is as easy and accessible as possible. Government, and hence society, can benefit by providing a supportive environment that appreciates and values the contribution entrepreneurs can make towards improvements in prosperity.

The U.S. ranks first in the world for the Environment for Business Creation. It has one of the most enabling environments in the world for encouraging entrepreneurialism, with low costs associated with starting a business. Generally speaking, Americans believe that they can start a business.[8]

4. John Kennedy. "How digital disruption changed 8 industries forever," *Silicon Republic*, November 25, 2015, https://www.siliconrepublic.com/companies/digital-disruption-changed-8-industries-forever.

5. Mike Brown. "This map of NYC taxi pickups explains why Uber is so successful," *Inverse*, February 1, 2017, https://www.inverse.com/article/27229-map-nyc-taxi-pickups-uber-success.

6. Eric Newcomer. "Uber sues New York City over rule limiting number of drivers," *Bloomberg*, February 15, 2019, https://www.bloomberg.com/news/articles/2019-02-15/uber-sues-new-york-city-over-rule-limiting-number-of-drivers.

7. Brad Hershbein, David Boddy, and Melissa S. Kearney. "Nearly 30 percent of workers in the U.S. need a license to perform their job: It is time to examine occupational licensing practices," *Brookings*, January 27, 2015, https://www.brookings.edu/blog/up-front/2015/01/27/nearly-30-percent-of-workers-in-the-u-s-need-a-license-to-perform-their-job-it-is-time-to-examine-occupational-licensing-practices/.

8. Schwab, Klaus, Xavier Sala-i-Martin. "The global competitiveness report 2017-2018," *World Economic Forum*, September 2017.

New businesses are formed in the U.S. every day, albeit at a decreasing rate. Interestingly, business formation data shows fewer new firms being started than in the past: there were 414,000 firms that were less than a year old in 2015, compared with an average of 511,000 in the decade before the financial crisis.[9] The number of new companies as a share of all U.S. businesses has dropped 44% since 1978.[10] This matters because new businesses are disproportionately responsible for the innovation that drives productivity and economic growth, and they account for virtually all net new job creation.[11] Although overall business formation has not recovered, happily, high-growth entrepreneurship has rebounded from its trough in the wake of the global financial crisis; it is high-growth entrepreneurship that is most valuable for transforming and developing the economy.[12]

The entrepreneurial environment has historically been strengthened (though recently weakened) by America's liberal immigration policies. Immigrants are twice as likely to start a business than native citizens and have founded more than half of the United States' 87 unicorn firms (companies with a value exceeding $1 billion) as of 2016. A similar proportion of immigrants founded Fortune 100 companies.[13] Every one of America's science and technology start-ups, which generate $52 billion per annum and employ 450,000 people, have had somebody born abroad as either their CEO or their chief technology officer.[14]

New businesses are disproportionately responsible for the innovation that drives productivity and economic growth

In spite of the intertwined nature of American prosperity and immigration, recent administrations have chosen to close the door to highly skilled immigration. Only 85,000 visas per year are allocated for highly skilled workers (who mostly settle in seven states: CA, NY, IL, FL, NJ, PA, TX),[15] with a cap of 10,000 visas per country, putting the waiting list for prospective immigrants from populous countries like India and China at roughly six years. Current immigration policy also makes it difficult for those who have been educated in the U.S. – even those graduating with doctorates in STEM subjects – to remain in the U.S. once they are fully qualified, depriving the country of a natural, and very needed, source of skilled labour.

BURDEN OF REGULATION (U.S. RANK: 25TH)

A large administrative burden results in companies focusing resources on complying with these regulations, rather than innovating and creating. In particular, the process of complying with tax regulations should be uncomplicated and quick. While the possibility of taxation having a detrimental effect on business is well understood, so too is the method of tax collection and the complexity of taxes being levied. Our measure captures how much effort and time are required to comply with such regulations.

9. "American entrepreneurship is flourishing, if you know where to look," *The Economist*, September 30, 2017.

10. Leigh Buchanan. "American entrepreneurship is actually vanishing. Here's why," *Inc.*, May, 2015.

11. "American entrepreneurship is flourishing, if you know where to look," *The Economist*, September 30, 2017.

12. "Entrepreneurial growth continues to rebound from Great Recession slump," *Kauffman Foundation, October 18, 2017,* https://www.kauffman.org/currents/2017/10/entrepreneurial-growth-continues-rebound-from-great-recession-slump-annual-kauffman-index-reports.

13. Brittany Shoot. "Immigrants founded nearly half of 2018's Fortune 100 companies, new data analysis shows," *Fortune*, January 15, 2019, http://fortune.com/2019/01/15/immigrants-founded-half-fortune-500-companies/.

14. "The United States of entrepreneurs: America still leads the world," *The Economist*, March 14, 2009.

15. Chiswick, Barry R., and Paul W. Miller. "Where immigrants settle in the United States." J*ournal of Comparative Policy Analysis: Research and Practice* 6, no. 2 (2004): 185-197.

In spite of a generally high score for Enterprise Conditions, the U.S. ranks only 25th in the world for the Burden of Regulation. Federal laws extend to 100 million words, and state laws add 2 billion more. The most time consuming administrative burdens in the U.S. are tax returns and other legislative bureaucracy. The U.S. ranks 52nd in terms of the time taken to complete taxes, and 33rd for the senior management time spent dealing with the requirements of government regulations. According to the National Taxpayer Advocate Service, "small businesses spend 2.5 billion hours complying with IRS rules each year".[16] Company owners spend an average of 4 hours per week on government compliance.

The complexity of the tax code has negative redistributive growth consequences that have accelerated over time as ever-greater numbers of policy goals are implemented through the tax code. This burden is particularly acute for smaller firms less able to manage complexity.[17] Laffer Associates in 2010 put the total cost of compliance with the federal income tax as being $430 billion, or 30% of the total amount of income tax money raised.[18] The National Taxpayers Union Foundation has estimated that filling in income tax returns took 1.9 billion hours in 2016, while the government's own estimates are that the total Internal Revenue Service compliance burden was almost 7 billion hours in 2015.[19] Corporations employ considerable resources to comply with, and minimize, their tax liability. General Electric, for example, employs a tax department of 900 lawyers and some of America's most profitable companies like GE, Verizon Communications, and Boeing have paid an average of 0% federal tax from 2012 to 2015.[20,21]

LABOUR MARKET FLEXIBILITY (U.S. RANK: 2ND)

The U.S. has the second-most flexible labour market in the world, behind Singapore. A series of reforms, initiated in the 1980s, has seen the U.S. take a more flexible approach to employment. It performs particularly well on a number of the measures that gauge flexibility of the labor market, ranging from relations between employers and workers, contract flexibility, and flexibility over workers' employment terms.[22]

The main impediment to Labour Market Flexibility in the United States is occupational licencing, which limits labor mobility. Interstate differences in occupational licensing make it extremely difficult for workers to switch jobs or move between states, which inhibits the free movement of labor, and therefore can increase prices in some cities and states. In South Carolina, 12% of jobs require licences and in Washington, Iowa, and Nevada licenses are required for over 30% of jobs. Federally-funded programmes exist to help job-seekers cope with these rules, calling into question the necessity for their existence.

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16. "Issues," *U.S. Senate Committee on Small Business & Entrepreneurship*, last accessed April 30, 2019, https://www.sbc.senate.gov/public/index.cfm/democraticissues.

17. United States Senate Committee on Finance. *Tax complexity, compliance, and administration: The merits of simplification in tax reform*, March 10, 2015. Washington, D.C: Dirksen Senate Building, 2015 (statement of Dr. Mihir A. Desai, Professor of Law, Harvard University).

18. Laffer, Arthur B., Wayne H. Winegarden, and John Childs. "The economic burden caused by tax code complexity." *The Laffer Center for Supply-Side Economics*, April, 2011.

19. Demian Brady. "Tax complexity 2017: As the burden grows, taxpayers' patience shrinks," *NTUF Policy Paper,* no. 178 (April, 2017).

20. Patricia Cohen. "Profitable companies, no taxes: Here's how they did it," *The New York Times*, March 9, 2017, https://www.nytimes.com/2017/03/09/business/economy/corporate-tax-report.html.

21. Frank Clement, and Harry Gural. "Fact sheet: Corporate tax rates," in *Tax fairness briefing booklet*, August, 2014, https://americansfortaxfairness.org/files/Tax-Fairness-Briefing-Booklet.pdf.

22. Schwab, Klaus, and Xavier Sala-i-Martin. "The global competitiveness report 2017-2018," *World Economic Forum*, September 2017.

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CONCLUSION

America rose to second place in the World Economic Forum's annual ranking of global economic competitiveness, behind Switzerland, due its strengths in business sophistication and technological readiness, its culture of innovation and entrepreneurship, and its large market. The entrepreneurial environment is more than cultural; it offers numerous competitive advantages to entrepreneurs.

The United States is well placed to continue playing a leading role in innovating new products, applications, and services

The United States is well placed to continue playing a leading role in innovating new products, applications, and services, having created many of the largest tech companies and platforms in the world. However, some of these tech titans have been allowed to dominate their respective industries, limiting competition. Big companies are naturally acquisitive of small companies and the best talent; when they enjoy a high concentration of market share and commensurately large profits, they have the opportunity to change the nature of the playing field itself through lobbying activities.

There is an anti-trust paradox in many U.S. markets. U.S. antitrust law was developed in the Progressive Era (1890 – 1920) to prevent large companies with market power from choking competition, and were strictly implemented in the United States to curb monopolies. Since the 1980s, courts have ruled on antitrust cases based principally on whether a company's behaviour leads to higher prices, or not. This focus is probably not optimal for evaluating the market power, anti-competitive behaviour, and monopolistic companies in an age when some products and services, such as those provided by Google, Facebook and others are free of charge.

The complexity of the American regulatory system creates undue advantage for larger companies who are able to employ lawyers and auditors for the sole task of compliance monitoring. Compliance costs disproportionately affect smaller businesses. In contrast with the deregulatory spirit of the late Carter and Reagan administrations, 'the land of the free' has become much more regulated, and watershed moments like the collapse of Enron and the global financial crisis have given rise to extensive new regulations which have, rightly or wrongly, limited the reach of credit markets and increased the amount of time and money required to comply with regulation.

Whatever the scale of compliance costs, such costs represent an unproductive economic activity that drives down productivity and the returns on both labour and capital, while producing no additional revenue for the government. Reforming the system of licensing could also grow employment in regulated occupations, expand consumer access to goods and services, and lead to a fall in pricing. Furthermore, there is no good reason why licensed occupations should not adhere to a common standard across states to eliminate the bureaucracy and barriers that discourage free movement and the creation of new jobs in places where the demand exists.

Opportunities for small business also depend on good access to funding, which has become concentrated in too few places; making this funding more accessible in America's secondary cities, between the coasts, could spawn a wave of innovation, value creation, and growth in local economies. Whether high-growth entrepreneurship can spread more evenly across America depends a lot on investors and access to capital beyond the coastal finance hubs. It also requires maintaining fair and contestable markets, where small and new businesses can compete effectively against very large corporates. While the scale of the domestic market is an enormous advantage to U.S. companies, it also obscures wider opportunities. American SMEs are also not ambitious enough about export opportunities outside the United States, and would benefit from support and advice to encourage exports.

One of the key threats facing America's Enterprise Conditions is the risk of the government limiting high skill entrants from abroad, who are proven to start and grow successful businesses. Skilled and ambitious immigrants keep America dynamic and competitive. There are many other international innovation clusters taking a growing share of global investment and skills, and America's economic interests would be well served by continuing to actively welcome talent and foreign investment. Policies aimed at limiting FDI through new rules and greater scrutiny risk missing out on many opportunities.

To conclude, America enjoys world leading Domestic Market Contestability, but it is not a given and requires ongoing vigilance to ensure that innovation continues to spring from young and new companies and is not stifled by others creating barriers to entry and growth.

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GOVERNANCE (U.S. RANK: 19TH)

The importance of good governance to long run economic growth cannot be overstated.[1] Even when controlling for extraneous factors such as culture, there is evidence that economic institutions are one of the main determinants of differences in prosperity across countries.[2] Governance underpins economic activity; unless and until good governance is established, attracting investment and enterprise is nearly impossible. Investment and prosperity require the effective Rule of Law, which itself is dependent upon trust in a robust set of effective and accountable state institutions.[3,4] Good governance is most robust when it has been established over time through natural evolution and is essentially a codification of cultural expectations and behaviours.[5]

Governance is a point of weakness in our assessment of the Economic Openness of the United States.

U.S. SWOT Analysis of Governance

STRENGTHS	WEAKNESSES
• Strong separation of powers embedded in the constitution • Americans believe in the power of the ballot box to hold politicians accountable	• Rise of America as a regulatory state • Growing power of the executive at the cost of Congress and a ceding of law-making to agencies and unelected individuals • Campaign finance, political spending and lobbying activities are risks to the integrity and independence of government and the representation of the interests of ordinary Americans • Rising power of lobbyists for big business • Falling trust in government and perceived increase in corruption especially at federal level
OPPORTUNITIES	**THREATS**
• Greater transparency of who is lobbying for what policies • Greater cost-benefit analysis of regulations	• Dominance of business and special interest groups buying ever greater influence

1. Douglass C. North. *Institutions, institutional change, and economic performance*. Cambridge: Cambridge University Press, 1990.
2. Acemoglu, Daron, and James Robinson. "The role of institutions in growth and development." *Leadership and Growth* 135 (2010).
3. O'Donnell, Guillermo A. "Why the rule of law matters." *Journal of Democracy* 15, no. 4 (2004): 32-46.
4. Haggard, Stephan, and Lydia Tiede. "The rule of law and economic growth: Where are we?." *World Development* 39, no. 5 (2011): 673-685.
5. Adkisson, Richard V., and Randy McFerrin. "Culture and good governance: A brief empirical exercise." *Journal of Economic Issues* 48, no. 2 (2014): 441-450.

Evaluating Governance

Governance can be conceptually split between the structural and operational aspects of how political and administrative power is checked and how it is applied.

The first of these structural aspects of Governance is **Executive Constraints**, which includes the existence of the separation of powers and the level of checks and balances in a governing system, particularly with respect to the executive. The second is **Political Accountability**, or the degree to which the public can hold public institutions accountable. The third is the **Rule of Law**, which encompasses the fairness, independence, and the effectiveness of the judiciary (in applying both civil and criminal law), along with the accountability of the public to the law.

We assess three different ways in which administrative power is applied. The first is **Government Integrity** (e.g., transparency and the absence of corruption). The second is **Government Effectiveness**, which is the ability of government to set and implement a policy. The final area is **Regulatory Quality**, which captures the extent to which regulations are administered and enforced in a manner that supports economic activity.

In the following sections, we review the performance of the U.S. in each of the distinct elements of Governance, from Executive Constraints through to Regulatory Quality.

EXECUTIVE CONSTRAINTS (U.S. RANK: 24TH)

A well-functioning government relies on clearly defined, separated powers and an appropriate level of external checks and balances on the executive, from bodies such as the judiciary, media, and civil society. Appropriate action also needs to be taken when officials violate their power. Our measure accounts for the extent of institutionalized constraints on the decision-making powers of the executive, such as through the separation of powers into different bodies, and the degree to which there are checks and balances in practice.

The United States' ranking of 24th reflects a combined judgment of experts that, despite the formal separation of powers, the effective constraints on the American executive are not sufficiently strong. One contributing factor has been the slow ceding of power from the legislature to the executive. Laws are passed which leave crucial elements undefined and subject to executive authority, allowing officials in the executive branch to decide how, where, and when a law will be implemented.

Presidential authority has also been dramatically expanded since the Nixon administration through the use of executive orders. In recent times, both Republican and Democratic presidents have relied upon executive orders to govern.[6]

Since the 1980s, the U.S. Congress has delegated an increasing amount of control over tariff and trade policy to the executive, so as to relieve itself of a politically contentious issue. The main juncture between the President and his Democratic and Republic predecessors over the

6. President Roosevelt asserted new powers over the economy, first to fight the Great Depression, and then for the war effort. Kennedy's great expansion was in the area of foreign policy, from soft programs like the Peace Corps to more aggressive options, like the Bay of Pigs and the Vietnam War. Bush and Obama both extended the limits of presidential authority and the Constitution on civil liberties on national-security grounds.

past thirty years is that the current President deems it prudent to increase tariffs[7], while the previous six or seven administrations, and their respective Councils of Economic Advisors, believed it better to reduce tariffs where possible. Hence, the President's approach to trade is not a fundamental shift in executive power, so much as a shift in policy.

This current administration has attempted to hand some legislative responsibility back to Congress, particularly in terms of health and environmental legislation. The Environmental Protection Agency has proposed that Congress should replace the Clean Power Plan, and the President has personally suggested that Congress pass a replacement for Obamacare. While these moves may be driven by expediency as much as for constitutional form, in the current political climate, neither seems a likely option.

This administration has also paid lip service to the importance of the 10th Amendment of the U.S. Constitution, which dictates that all powers not expressly reserved to the federal government are held by the states. This amendment guarantees that, on paper, state governments hold most of the responsibility for governing. In reality, such guarantees have been eroded in recent decades by stances taken by all three branches of the federal government, with little further recourse for the states.

POLITICAL ACCOUNTABILITY (U.S. RANK: 34TH)

Political Accountability is important for promoting democracy and ensuring prosperity. It provides a democratic means to monitor government conduct and prevent both the concentration of power and collusion between the state and big businesses. Our measure of Political Accountability captures the degree to which the public can hold public institutions to account, which covers a range of mechanisms of accountability such as periodic elections and the degree of political pluralism.

Freedom House give the United States a score of 3 out of 4 for the fairness of the frameworks and implementation of electoral law, citing a long-term issue with respect to gerrymandering of electoral district boundaries and a more recent challenge of foreign interference in elections. The U.S. score for political participation and rights has declined in recent years. The rise of populism in American politics on both the left and the right attests to the erosion of the belief that every vote counts and that the political system reflects a plurality of views. For example, the original purpose of the electoral college no longer holds as much sway as it used to.

Donald Trump came to power on a promise to fight for a middle America that had been hollowed out by globalization and neglected by the elite, vowing to 'drain the swamp' of corruption and lobbyists. During his campaign, Senator Bernie Sanders explained his conception of 'democratic socialism' as an agent for change that would remove the corrupt tendencies of American politics. A recent survey by Transparency International, the U.S. Corruption Barometer 2017, shows that the U.S. government and some key institutions of power still have a long way to go to win back citizens' trust, due to increased concerns about

7. Shawn Donny, and Jenny Leonard. "Trump would get expanded tariff powers under new bill," *Bloomberg,* January 10, 2019, https://www.bloomberg.com/news/articles/2019-01-10/trump-would-get-expanded-tariff-powers-under-new-draft-bill.

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the level of corruption. At the same time, many people reported feeling that they can make a difference via the ballet box, demonstrating that citizens are both engaged and empowered on the issue of Political Accountability.

RULE OF LAW (U.S. RANK: 23RD)

An independent, impartial, and effective judiciary is a cornerstone of democracy, as it ensures that the law, both civil and criminal, is being fairly and appropriately applied. It also means that business disputes are settled in an open, unbiased, transparent, and predictable manner, which is essential for business development and investment. There needs to be a level playing field for both state agents and firms so that firms can thrive. Our measure of the Rule of Law captures these elements, along with the accountability of the public to the law.

An independent, impartial, and effective judiciary is a cornerstone of democracy, as it ensures that the law, both civil and criminal, is being fairly and appropriately applied

The United States' ranking of 23rd for Rule of Law is a consequence of strong performance in the integrity of the legal system (13th) and the efficiency of dispute settlement (8th), combined with weaker rankings for judicial independence (25th) and quality of civil justice (35th).

The huge impact that state courts have on the United States' legal and policy landscape means that judicial elections have become more politicized and polarized in recent decades and dominated by special interests, particularly, though not exclusively, in the 39 states that use elections to choose at least some of their judges. Growing evidence suggests that these dynamics impact who is reaching the bench and how judges are deciding cases. The Brennan Centre has "monitored judicial elections and other state court issues for almost two decades", and "has chronicled numerous threats to the fairness and integrity of state courts that are closely tied to how states choose their judges”.[8] They cite the role of money in judicial elections and the politicisation of judicial campaigns, meaning that judges are not seen to be entirely dispassionate in their decision-making. They also determine that the bench often does not represent the diversity of the communities they serve, and that this lack of representation undermines public confidence in the courts and creates a jurisprudence uninformed by a broad range of experience.[9] To the extent that commercial cases are perceived to be impacted by politics, material costs are imposed on economic transactions.

GOVERNMENT INTEGRITY (U.S. RANK: 19TH)

Corruption has a serious and significant negative economic impact, reducing public trust and the legitimacy of the state. It raises inequality, discourages private sector development, and, by reducing government revenue, limits the ability of governments to invest in productivity-enhancing projects. Transparency supports public accountability and helps build trust in the government, which in turn supports social stability and economic growth. Our measure considers corruption within each branch of government and public office, and it also measures transparency, capturing the degree to which government fosters citizens' participation and engagement through open information and transparent practices.

The U.S. ranking of 19th reflects a broadly consistent performance across the different indicators, with relative strengths in the transparency of government budgets (7th) and policy (12th). However, the U.S. faces a wide range of domestic challenges related to the abuse of entrusted power for private gain, principally from campaign finance and a huge rise in lobbying activity, but also the revolving doors between elected government office, for-profit companies, and professional associations. Freedom House scores the U.S. 3 out of 4 for safeguards against official corruption, noting that since 2017, “the Trump administration has presented a number of new challenges to existing norms of government ethics and probity”, referring to the close connection between the Trump-branded business and the administration. Before the 1970s, there was enormous public trust in the U.S. government, but after that it fell from a high of 73% in 1958 to 24% in 2014. Justin Wolfers, an economist at the University of Michigan, suggests that a growing lack of trust in institutions, including the government, the courts, and the media, is due to increased transparency, and is a function of ‘what we know now’ that was not known in the 1950s, when confidence in these institutions peaked.[10,11]

Americans worry most about corruption at the federal level and the influence that big business exerts on policy-setting and law-making through lobbying and political spending; they are comparatively less concerned about local or state level corruption such as the process of awarding contracts to local companies. A clear majority of people in America believe things have become worse, with nearly six in ten people saying that the level of

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8. Alicia Bannon. *Rethinking judicial selection in state courts*. (New York, N.Y.: Brennan Center for Justice at New York University School of Law, 2016).

9. Ibid.

10. Lynn Vavreck. “The long decline of trust in government, and why that can be patriotic,” *The New York Times*, July 3, 2015, https://www.nytimes.com/2015/07/04/upshot/the-long-decline-of-trust-in-government-and-why-that-can-be-patriotic.html.

11. NPR Staff. “Trust in America: Recovering what’s lost,” *NPR,* October 30, 2011, https://www.npr.org/2011/10/30/141844751/trust-in-america-recovering-whats-lost?t=1556640818537.

corruption has risen in the past twelve months according to a survey by Transparency International. The U.S. Corruption Barometer 2017, shows that the U.S. government and some key institutions of power still have a long way to go to win back citizens' trust. The results show that 44% of Americans believe that corruption is pervasive in the White House, and almost 70% of people believe the government is failing to fight corruption, up from 50% in 2016. Government institutions and officials in Washington are perceived to be the most corrupt in the country.

The Supreme Court's 2010 decision in Citizens United v. FEC allowed, through the creation of new types of political action committees (or super-PACs), the spending of unlimited amounts of personal, non-profit, or corporate money in American politics, increasing the probability of foreign money making it into U.S. elections.

Such lobbying activities are big business in the U.S. Corporations receive $4.4 trillion per annum in federal contracts and subsidies, and spend $2.6 billion on lobbying. There is also a gap between corporate and union spending. For every $1 spent by unions and public interest groups on direct lobbying that year, business interests spent $34. Of the 100 highest-spending lobbying organizations in 2012, 95 represented business. Of the 50 groups with the widest lobbying presence in statehouses across the country, 42 represent business interests. According to a 2014 Sunlight Foundation report, lobbying earns corporations a huge return on investment by ensuring they secure subsidies, estimating that for every dollar spent on influencing politics, the most politically active corporations received $760 from the government in return.

Technology is playing an important role in driving transparency and preventing corruption

The U.S. performs well, however, on other measures of government transparency. The Sunshine Act of 1976 has helped to create transparency in federal law-making. In addition, the DATA Act of 2014 mandated the provision of open, standardized data on federal spending online. However, at a state level, there is a wide variation in the quality and quantity of information that is available regarding budgets, bids for contracts, state finances, and record keeping.

Technology is playing an important role in driving transparency and preventing corruption, with higher automation and increased availability of e-governance leading to lower corruption. The U.S. ranks 11th in e-government development globally, ahead of Germany, but behind Japan and the UK. Bureaucratic capacity is a strong predictor of online transparency and a competent government IT staff are more likely to provide well-designed, easy-to-navigate, and informative information via its website for G2C (Government to Citizen) and G2B (Government to Business) services.

GOVERNMENT EFFECTIVENESS (U.S. RANK: 10TH)

Government Effectiveness includes, but extends beyond, the efficient use of resources and spending through effective government policy design and implementation, to also consider the ability of a government to enact its stated strategies. Our measure includes the quality of public services, the quality of government officials, and their independence from government pressures.

The U.S. government is broadly effective in setting and implementing policy, and it gets things done via the quality and efficiency of its institutions and regulatory bodies that afford American consumers a high level of protection. The World Economic Forum ranks it third for the efficiency of government spending, just behind the UAE. However, the U.S. is ranked only 17th in the Worldwide Governance Index for government quality and credibility, and this score has experienced long-term decline since 2000.[12]

The efficiency of the U.S. government is not without its critics. Steve Teles has described it as a 'kludgeocracy', claiming that 'the complexity and incoherence of our government often make it difficult for us to understand just what that government is doing.'[13] Programs such as Health Insurance, Taxation, Social Security, and Federal Education Funding are notoriously complicated and inefficient. Another added complexity is introduced when both federal and state governments have overlapping authority: '[when] administering programs through inter-governmental cooperation introduces pervasive coordination problems into even rather simple governmental functions, the odds are high that programs involving shared responsibility will suffer from sluggish administration, blame-shifting, and unintended consequences.'[14]

On the other hand, the government is highly reactive and effective in crisis situations. A notable example was the U.S. government's swift and successful response to the 2007–2008 global financial crisis that had threatened the very survival of many American banks and large corporates. A coordinated and sustained strategy involving the U.S. Treasury Department, the Federal Reserve and SEC averted a much worse crisis at the time - even if the systemic issues have not been fully resolved.

Furthermore, the issue of broader government effectiveness has been institutionalized through the work of the Government Accountability Office (GAO), which reports on federal programs and initiatives that have duplicative goals and recommend areas to achieve savings.[15] Agencies have been responsive to GAO reports, resolving 76% of actions identified from 2011 to 2017 and resulting in approximately $178 billion in financial benefits. However, a 2015 Deloitte report suggested that the GAO should be seen as an 'effective scalpel but not a panacea for the federal government's longstanding problems', in that addressing discrete issues will not tackle the structural challenges.[16]

REGULATORY QUALITY (U.S. RANK: 19TH)

Regulatory Quality encompasses all aspects of the running of the regulatory state – whether it is burdensome and impedes private sector development, or whether it is smoothly and efficiently run. In contrast to its higher ranking for Government Effectiveness, the U.S. ranks only 19th for Regulatory Quality. This is largely to do with the vast number of regulations with which Americans must comply. According to one study, Americans are subject to over 1 million regulations, vastly more than the statutes written by the elected lawmakers in Congress.[17] While the U.S. is the sixth-best ranked country for the ease with

12. World Bank. *Worldwide governance indicators (WGI) project*. (Washington, D.C.: The World Bank Group, 2011).

13. Steven M. Teles. "Kludgeocracy in America," *National Affairs*, 2013, https://www.nationalaffairs.com/publications/detail/kludgeocracy-in-america.

14. Ibid.

15."Government efficiency and effectiveness: Opportunities to reduce fragmentation, overlap, and duplication and achieve other financial benefits," *United States Government Accountability Office*, April 26, 2018.

16. Daniel Byler, Steve Berman, Vishwa Kolla, and William D. Eggers. "Accountability quantified," *Deloitte Insights*, February 18, 2015, https://www2.deloitte.com/insights/us/en/topics/analytics/text-analytics-and-gao-reports.html

17. Patrick McLaughlin, and Oliver Sherouse. "Regulatory accumulation since 1970," *Mercatus Center*, August 21, 2017, https://www.mercatus.org/publications/regulation/regulatory-accumulation-1970.

which administrative regulations can be challenged, it is ranked only 41st for the delays in administrative proceedings, which impose a cost on doing business.

The law-making authority delegated to agencies has over time created a regulatory state. One driver of ever-increasing complexity in American laws is lobbying (see section on Government Integrity). When a bill is hundreds of pages long, it is not hard for members of congress to slip in clauses that benefit friends and campaign donors. The World Bank's ranking of the U.S. at 17th for Regulatory Quality reflects a longer-term decline in this measure – the U.S. was ranked 10th in 2009. While the regulatory environment is not perfect, it is significantly better than many other developed economies, such as Austria, France, and Italy.

The current administration has, on paper, attempted to halt the trend of an increasing number of regulations. In Executive Order 13771, enacted shortly after he assumed office, the President directed that agencies may issue new regulations only by rescinding two or more existing regulations, with net costs held to an annual budget of zero. Therefore, regulators will be forced to monitor the effectiveness of all their rules by this two-for-one rule, and make choices to reduce annual costs. A recent analysis from the Brookings Institution noted that the 'administration has halted the growth of regulation that imposes costs, but so far has left the existing regulatory framework largely in place.'[18]

CONCLUSION

Of the four pillars of Economic Openness, the U.S. performance in Governance is the weakest. From a practical perspective, the two elements that most impact the quality of economic performance are weaknesses in Government Integrity and Regulatory Quality.

The buying of ever-greater influence through lobbying and campaign finance contributions by businesses and special interest groups is a serious threat to the accountability of government and the preservation of a level playing field in corporate America. Smaller businesses are being disadvantaged, lacking the means to employ lobbyists to influence policy and tap government subsidies and contracts. Ordinary Americans are concerned about a systemic corruption of the political process over many several decades where more lobbyists, ever-increasing lobbying budgets, and sharper tactics are being deployed. Public disclosure would enable companies and individuals to be held to account.

A renewed appreciation of the threat of unchecked regulation is apparent in America today. The current regulatory regime gained strength over a century of incremental growth. President Trump has introduced some early measures to reverse the continual introduction of new regulations via a form of regulatory budgeting where agencies can issue new regulations only by rescinding two or more existing ones, the appointment of regulatory chiefs who are likely to curb bureaucratic excesses and the rising influence of lobbyists and interest groups, and returning several key policy areas to Congress.

18. Connor Raso. "How has Trump's deregulatory order worked in practice?," September 6, 2018, https://www.brookings.edu/research/how-has-trumps-deregulatory-order-worked-in-practice/.

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CONCLUSIONS

Our thinking at the Legatum Institute is framed by our view that prosperity is created when economic and social wellbeing work together. True prosperity is about much more than economic success and material wealth, but every nation needs a successful economy to build sustainable prosperity. Our intention in publishing this case study of U.S. Economic Openness has been to provide a holistic and systematic assessment of the policy environment underpinning the U.S. economy and, in doing so, seek to highlight both its strengths and weaknesses.

The United States is one of the most prosperous countries in the world because of the incredible success of its economy. Its domestic market is open, contestable, investable, and underpinned by stable governance – although the quality of governance is a point of comparative weakness. The U.S. also has access to one of the largest talent pools in the world through its extensive university system, as well as its historic openness to immigration.

The sheer size of its domestic market has contributed to this success; unlike most other countries, where domestic production tends to be a sleepier affair than export-driven business, producers for the U.S. domestic market have access to deep capital markets and face fierce competition. Individual states are economically significant enough to displace major OECD economies; were California an independent country, it would replace the United Kingdom as the 5th largest economy in the world, and New York would replace South Korea as the 11th largest economy in the world.

Certain sectors (almost always those with close regulatory proximity to the federal government) are not particularly competitive, however. Examples include civil aviation, mobile telephony, fixed broadband, and television. Companies in each of these sectors have successfully 'captured' the regulatory state, designing many of their own rules and inhibiting fresh entry into their respective markets. Because of this regulatory capture, Americans tend to pay more than their European counterparts for these essential services, and large parts of the country lack reliable access to the internet or mobile phone coverage.

The ability of companies to effectively choose their own rules through lobbying efforts has contributed to declining levels of public trust. Such lobbying efforts were made easier in the wake of the *Citizens United* case, which saw the Supreme Court allow unlimited sums of personal and corporate cash to flow into super-PACs. This is a particular example of why Governance is the weakest area for an economy that is otherwise very open and contestable. The U.S. is not alone. Across the world over the last decade, the quality of Governance has not improved, while the other three pillars of Economic Openness have all shown steady improvement.

Nonetheless, the United States can take comfort in continuing to be among a small number of exemplar countries for Economic Openness around the world.

APPENDIX

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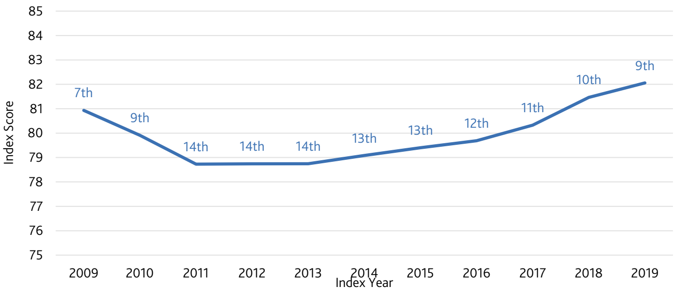
United States: Index score 82.1 (9th)

GDP (US$) per Capita: $59,532 (7th) | GDP (US$): $19,391bn (1st)

Economic Openness over time



Pillar Performance

Pillar	Rank - Global (1 to 157) 2019	Score 2009	Score 2019
Market Access & Infrastructure	6	75.9	78.6
Investment Environment	6	82.3	81.2
Enterprise Conditions	2	87.3	88.7
Governance	18	78.3	79.7

Breakdown of performance

	Score 2009	Score 2019	Rank - Global (1 to 157) 2019	10-year rank change
Economic Openness	**80.9**	**82.1**	**9**	▼ 2
Market Access & Infrastructure	**75.9**	**78.6**	**6**	▲ 1
Communication	19.0	20.7	23	▼ 12
Resources	16.8	17.1	4	▼ 1
Transport	17.0	16.9	6	▲ 5
Border Administration	3.8	4.0	17	▲ 2
Open Market Scale	2.9	3.6	15	▼ 10
Import Tariff Barriers	4.2	4.1	44	▼ 6
Market Distortions	12.2	12.2	7	▲ 6
Investment Environment	**82.3**	**81.2**	**6**	▲ 1
Property Rights	16.3	16.8	18	▲ 1
Investor Protection	16.4	16.3	9	▼ 1
Contract Enforcement	14.6	14.4	12	▼ 4
Financing Ecosystem	27.2	26.8	1	-
Restrictions on International Investment	7.8	6.8	58	▼ 15
Enterprise Conditions	**87.3**	**88.7**	**2**	-
Domestic Market Contestability	35.0	35.0	1	-
Environment for Business Creation	27.4	27.8	1	-
Burden of Regulation	15.8	16.5	25	▼ 9
Labour Market Flexibility	9.1	9.4	2	-
Governance	**78.3**	**79.7**	**18**	▲ 1
Executive Constraints	11.3	11.4	24	▲ 4
Political Accountability	14.0	13.3	34	▼ 19
Rule of Law	10.5	10.8	23	▲ 3
Government Integrity	14.3	15.2	19	▲ 1
Government Effectiveness	18.3	18.7	10	▲ 8
Regulatory quality	10.0	10.4	19	▲ 5

Market Access & Infrastructure (6th)

Indicator contains imputed values

Communication (23rd)

Communication (23rd)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
International internet bandwidth	ITU	kilobits per person	11.3		93.9	19	25
2G, 3G and 4G network coverage	GSMA	index score, 0-100	98.8		98.8	7	20
Fixed broadband subscriptions	ITU	number per 100 people	23.9		33.9	17	19
Internet Usage	ITU	percentage of population	75.0		76.2	13	44

Resources (4th)

Resources (4th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Installed electric capacity	UNESD	kilowatts per capita	3.3		3.3	8	7
Gross fixed water assets	IBNWS	USD per population served	2,478.3		2,478.3	2	2
Reliability of electricity supply	WBDB	index score, 0-7	5.6		6.2	48	31
Ease of establishing an electricity connection	WBDB	index score, 0-100	88.3		88.3	12	22
Water production	IBNWS	litres per person per day	699.0		699.0	11	11
Reliability of water supply	WEF	expert survey, 1-7	6.1		6.1	28	28

Transport (6th)

Transport (6th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Logistics performance	WBLPI	index score, 1-5	3.9		4.1	13	10
Airport Connectivity	WEF	index based on seats and size of airport	27.2		22.4	18	16
Efficiency of seaport services	WEF	expert survey, 1-7	5.9		5.8	11	5
Liner shipping connectivity	UNCTAD	index score, rebased to 100 in 2004	82.5		96.7	6	8
Quality of roads	WEF	expert survey, 1-7	5.9		5.9	12	12
Road density	FAO	km per 100 sq km of land area	66.2		66.7	43	43
Rail density	WBDI	km per sq km of land area	0.0		0.0	36	36

Border Administration (17th)

Border Administration (17th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Efficiency of customs clearance process	WBLPI	survey, 1-5	3.5		3.8	19	10
Time to comply with border regulations and procedures	WBDB	hours	3.0		3.0	23	24
Cost to comply with border regulations and procedures	WBDB	USD (current)	127.5		127.5	39	40

Open Market Scale (15th)

Open Market Scale (15th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Domestic and international market access for goods	WTO	constant 2010 USD $bn	34,912.2		42,456.8	4	11
Domestic and international market access for services	WTO	constant 2010 USD $bn	34,690.2		42,159.4	3	11
Trade-weighted average tariff faced in destination markets	WEF	percentage	5.2		4.9	153	152
Index of margin of preference in destination markets	WEF	index score, 1-100	21.9		23.5	122	129

Import Tariff Barriers (44th)

Import Tariff Barriers (44th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Share of imports free of tariff duties	WEF	percentage	77.1		77.3	55	58
Average applied tariff rate	WEF	percentage	1.3		1.4	32	33
Complexity of tariffs	WEF	index score, 1-7	3.9		3.7	126	124

Market Distortions (7th)

Market Distortions (7th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Extent of liberalisation of foreign trade	*BTI*	*expert survey, 1-10*	*10.5*		*10.5*	*1*	*1*
Prevalence of non-tariff barriers	WEF	expert survey, 1-7	5.2		5.3	36	7
Non-tariff measures	UNCTAD	number	6,053.0		6,053.0	153	153
Distortive effect of taxes and subsidies	WEF	expert survey, 1-7	5.1		5.1	7	7
Energy subsidies	IMF	percentage of GDP	3.6		3.8	75	88

Investment Environment (6th)

Indicator contains imputed values

Property Rights (18th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Protection of property rights	WEF	expert survey, 1-7	5.8		5.8	24	16
Lawful process for expropriation	WJP	index score, 0-1	0.6		0.7	49	26
Intellectual property protection	WEF	expert survey, 1-7	5.6		5.9	17	14
Quality of land administration	WBDB	Index score, 0-30	7.0		7.0	24	26
Procedures to register property	WBDB	index score, 0-100	85.1		85.2	23	29
Regulation of property possession and exchange	*BTI*	*expert survey, 1-10*	*10.0*		*10.0*	*2*	

Investor Protection (9th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Strength of insolvency framework	WBDB	index score, 0-16	15.0		15.0	2	3
Insolvency recovery rate	WBDB	percentage	82.3		81.8	11	18
Auditing and reporting standards	WEF	expert survey, 1-7	5.9		5.9	20	14
Extent of shareholder governance index	WBDB	index score, 0-10	4.6		4.6	96	105
Conflict of interest regulation	WBDB	index score, 0-10	8.3		8.3	7	8

Contract Enforcement (12th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Quality of judicial administration	WBDB	index score, 0-18	13.8		13.8	10	16
Time to resolve commercial cases	WBDB	days	140.0		140.0	37	31
Legal costs	WBDB	percentage	10.2		10.2	96	95
Alternative dispute resolution mechanisms	WJP	index score, 0-1	0.8		0.8	16	23

Financing Ecosystem (1st)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Access to finance	*WBES*	*percentage*	*8.3*		*8.3*	*17*	*19*
Financing of SMEs	WEF	expert survey, 1-7	5.8		5.8	1	1
Venture capital availability	WEF	expert survey, 1-7	5.1		5.6	1	1
Quality of banking system and capital markets	*BTI*	*expert survey, 1-10*	*10.5*		*10.5*	*2*	
Commercial bank branches	WBDI	branches per per 100,000 adults	34.8		31.5	22	18
Soundness of banks	WEF	expert survey, 1-7	6.1		5.8	40	19
Depth of credit information	WBDB	index score, 0-8	8.0		8.0	2	1

Restrictions on International Investment (58th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Business impact of rules on FDI	WEF	expert survey, 1-7	5.3		5.2	53	32
Capital controls	FI	percentage	61.5		38.5	41	63
Freedom to own foreign currency bank accounts	FI	expert judgement, 0-10	10.0		10.0	4	3
Restrictions on financial transactions	CII	index score, 0-1	1.0		1.0	2	3
Prevalence of foreign ownership of companies	WEF	expert survey, 1-7	5.4		5.4	3	2
Freedom of foreigners to visit	FI	index score, 0-10	4.1		0.6	88	142

Enterprise Conditions (2nd)

Indicator contains imputed values

Domestic Market Contestability (1st)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Market-based competition	*BTI*	*expert survey, 1-10*	*10.0*		*10.0*	*1*	*1*
Anti-monopoly policy	*BTI*	*expert survey, 1-10*	*10.0*		*10.0*	*1*	*1*
Extent of market dominance	WEF	expert survey, 1-7	5.9		5.7	1	1

Environment for Business Creation (1st)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Private companies are protected and permitted	*BTI*	*expert survey, 1-10*	*10.0*		*10.0*	*1*	*1*
Ease of starting a business	WBDB	index score, 0-100	91.4		91.6	11	46
State of cluster development	WEF	expert survey, 1-7	5.6		5.8	2	1
Labour skill a business constraint	*WBES*	*percentage*	*17.8*		*17.8*	*66*	*65*
Availability of skilled workers	WEF	expert survey, 1-7	5.8		5.8	1	1

Burden of Regulation (25th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Burden of government regulation	WEF	expert survey, 1-7	3.5		4.7	48	12
Time spent complying with regulations	*WBES*	*percentage*	*3.9*		*3.9*	*39*	*31*
Number of tax payments	WBDB	number per year	10.6		10.6	27	55
Time spent filing taxes	WBDB	hours per year	175.0		175.0	39	50
Burden of obtaining a building permit	WBDB	index score, 0-100	84.4		80.2	6	19
Building quality control index	WBDB	index score, 0-15	11.2		11.2	60	67

Labour Market Flexibility (2nd)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Cooperation in labour-employer relations	WEF	expert survey, 1-7	5.2		5.7	17	1
Flexibility of hiring practices	WEF	expert survey, 1-7	5.4		5.6	6	1
Redundancy costs	WEF	weeks	0.0		0.0	1	1
Flexibility of employment contracts	WBDB	index score, 0-1	1.0		1.0	1	1
Flexibility of wage determination	WEF	expert survey, 1-7	5.9		5.7	10	13

Governance (18th)

Indicator contains imputed values

Executive Constraints (24th)

Executive Constraints (24th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Executive powers are effectively limited by the judiciary and legislature	WJP	index, 0-3	2.5		2.4	17	17
Government powers are subject to independent and non-governmental checks	WJP	index, 0-3	1.9		2.4	38	23
Transition of power is subject to the law	WJP	expert survey, 0-1	0.8		0.8	30	45
Military involvement in rule of law and politics	FI	index, 0-10	6.7		6.7	73	66
Government officials are sanctioned for misconduct	WJP	expert survey, 0-1	0.7		0.7	30	29

Political Accountability (34th)

Political Accountability (34th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Consensus on democracy and a market economy as a goal	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	
Political participation and rights	FH	expert judgement, 1-7	1.0		2.0	1	60
Democracy level	CSP	expert judgement, -10-10	10.0		8.0	1	58
Complaint mechanisms	WJP	expert survey, 0-1	0.8		0.8	17	20

Rule of Law (23rd)

Rule of Law (23rd)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Judicial independence	WEF	expert survey, 1-7	5.1		5.5	38	25
Civil justice	WJP	index, 0-5	3.8		3.8	32	35
Integrity of the legal system	FI	expert judgement, 1-10	8.3		8.3	19	15
Efficiency of dispute settlement	WEF	expert survey, 1-7	4.6		5.6	30	8

Government Integrity (19th)

Government Integrity (19th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Use of public office for private gain	WJP	index, 0-4	2.3		2.3	24	22
Diversion of public funds	WEF	expert survey, 1-7	4.9		5.2	28	23
Right to information	WJP	expert survey, 0-1	0.7		0.7	17	18
Publicised laws and government data	WJP	expert survey, 0-1	0.6		0.8	26	17
Transparency of government policy	WEF	expert survey, 1-7	4.8		5.6	31	12
Budget transparency	IBP	index, 0-100	81.0		77.0	6	7

Government Effectiveness (10th)

Government Effectiveness (10th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Government quality and credibility	WGI	index, -2.5-2.5	1.6		1.5	19	17
Prioritisation	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	
Efficiency of government spending	WEF	expert survey, 1-7	3.6		5.9	58	3
Efficient Use Of Assets	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	
Implementation	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	
Policy Learning	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	
Policy Coordination	*BTI*	*expert judgement, 1-10*	*10.0*		*10.0*	*1*	

Regulatory quality (19th)

Regulatory quality (19th)	Source	Unit	Value 2009	Value 10-yr trend	Value 2019	Global Rank 2009	Global Rank 2019
Regulatory quality	WGI	index, -2.5-2.5	1.6		1.5	10	17
Enforcement of regulations	WJP	expert survey, 0-1	0.7		0.7	26	19
Efficiency of legal framework in challenging regulations	WEF	expert survey, 1-7	4.3		5.2	33	6
Delay in administrative proceedings	WJP	expert survey, 0-1	0.6		0.6	32	41

List of data sources and acronyms

Code	Organisation
BTI	Bertelsmann Stiftung's Transformation Index
CSP	Center for Systemic Peace
CII	Chinn-Ito Index
FI	Fraser Institute
FH	Freedom House
GSMA	Groupe Spéciale Mobile Association
IBNWS	International Benchmarking Network for Water and Sanitation Utilities
IBP	International Budget Partnership
IMF	International Monetary Fund
ITU	International Telecommunications Union
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
WBDI	World Bank Development Indicators
WBDB	World Bank Doing Business
WBES	World Bank Enterprise Survey
WBLPI	World Bank Logistics Performance Index
WGI	World Bank Worldwide Governance Indicators
WEF	World Economic Forum
WJP	World Justice Project
WTO	World Trade Organisation

LEGATUM INSTITUTE
11 Charles Street
London W1J 5DW
United Kingdom

t: +44 (0) 20 7148 5400

Twitter: @LegatumInst

www.li.com
www.prosperity.com

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