

# MAURITIUS

## ERRIAH CHAMBERS



### FIRM INFORMATION

**Languages spoken:** English and French  
**Contact:** Dev R. Erriah  
**Telephone:** +230 208 2220  
**Fax:** +230 212 6967  
**Email address:** deverriah@intnet.mu

### COUNTRY INFORMATION

Mauritius is a small island measuring 720 square miles. It is located some 2 500 km off the coast of Africa. It has a multi-racial population of more than one million comprising Hindus, Muslims, Creoles, Chinese and Franco-Mauritians.

The Dutch, who were the first settlers, arrived in 1598. The French arrived in 1723 and occupied the island until 1810. It was the French who introduced a legal system based on the French civil and criminal law. In 1810, the British captured Mauritius from the French after winning the battle of Grand-Port. Britain governed Mauritius until 12 March 1968 when the island was granted its independence and became a republic.

Mauritian territory incorporates the island of Rodrigues (some 600 kilometres to the east) which is 119 square kilometres in area. Two tiny dependencies to the north of Mauritius (the Agalega Islands and the Cargados Carajos Shoals also known as the St. Brandon Rocks) are unpopulated. Nonetheless, their location permits the nation's exclusive economic zone (EEZ) to cover about 1.9 million square kilometres of the Indian Ocean. The population of Mauritius is estimated to be 1 300 000 with a population density of 672 per square kilometre.

Mauritius has transformed its economy from a mono-crop economy. The main pillars of the economy now are tourism, textiles, manufacturing, agriculture and financial services.

### POLITICAL SYSTEM

Mauritius is a multiparty democracy. The government is elected every five years. The last general elections took place on 10 December 2014.

### ECONOMIC SYSTEM

- Latest gross domestic product (GDP) Figures: US \$ 11.51 billion
- Real GDP Growth: 5.3 %
- GDP/Capita: USD 9134.82
- Inflation Rate: 1.5%

### LEGAL SYSTEM

Substantive Mauritian law consists of both statutory law, i.e. Acts of Parliament, and the common law which comprises the Civil Code and English common law and case law.

Acts of Parliament have the force of law once they have been proclaimed in the Government Gazette.

Statute law in the Republic of Mauritius includes by-laws and regulations made by ministers under Acts of Parliament.

The Mauritian legal system is a mixture of the English and French systems. Mauritian criminal law, for instance, is inspired by the French penal code but the procedure used, as well as the law of evidence, is English. The company law is English but the Droit de Société which is equally used is French. The Complaint with Summons and Pleas are drafted in English whereas examination-in-chief and cross-examination may be carried out in French and Creole, with the permission of the court. Mauritius has a hybrid legal system in which the French civil law and the English common law form part. The French Civil Code, the French Code de Commerce and the French Penal Code — as amended to suit the Mauritian context — apply in Mauritius alongside the English common law system.

Company law, trust law, constitutional and administrative law, maritime law and employment law have been imported from the English legal system. Private international law, however, is based on French private international law.

### COURT STRUCTURE

The Supreme Court has a Chief Justice and seventeen Puisne Judges who also serve on the Court of Criminal Appeal and the Court of Civil Appeal. Magistrates serve on the Intermediate Court, the Industrial Court and ten District Courts. There is a right of appeal to the Judicial Committee of the Privy Council in London (the Privy Council also sits in Mauritius from time to time). The President of the Republic in consultation with the Prime Minister nominates the Chief Justice. The President nominates other Judges on the advice of the Chief Justice and the Judicial and Legal Service Commissions. Defendants have



the right to counsel, including court-appointed counsel in case of indigency.

## FORMS OF BUSINESS

- Limited or unlimited liability company
- Private or public company
- Partnership (“Sociétés Civiles” and “Sociétés Commerciale”)
- Foreign company (branch)
- Company holding a category 1 business licence (private, public, limited life or partnership)
- Company holding a category 2 business licence (private, public, limited life or partnership)
- Protected cell company
- Limited life company
- Investment company/Funds
- Limited partnerships
- Foundations
- Private Pension Schemes
- Trusts
- Sole trader

## FORMATION OF A COMPANY

An application for incorporation of a company must be submitted to the Registrar of Companies. The following structures are available:

- Domestic companies (as opposed to global business companies)
- A category 1 Global Business Company (“GBC 1”) or category 2 Global Business Company (“GBC2”) - if the proposed company is issued with a Global Business Licence by the Financial Services Commission (“FSC”)

The most common form of business vehicle is the private company limited by shares.

The name of the company must first be reserved at the Registrar of Companies (which takes two days) and the application for registration at the Registrar of Companies must be filed on confirmation of the availability of the name. The Registrar of Companies normally gives its acceptance of registration within three business days and issues the certificate of incorporation of the company after payment of the registration fees. Other important facts are:

- there is no minimum or maximum share capital
- shares can be issued for consideration other than cash
- there are no restrictions on rights attaching to shares
- there are no restrictions on foreign entities or individuals holding shares in a company in Mauritius. However, the Prime Minister’s approval is required for foreign shareholders in companies holding immovable property or long-term leases of immovable property
- directors are responsible for the management of the company but major transactions must be approved by shareholders. A GBC1 or a GBC2 company must use a management company for incorporation and keeping records of the company at a registered office in Mauritius
- there must be a minimum of 1 resident director for domestic companies and minimum of 2 resident directors for a GBC1. Resident directors are not required for a GBC2 company
- directors are responsible for managing the business and

- affairs of the company and must act in good faith and in the best interests of the company (section 143, Companies Act)
- annual audited financial statements and an annual report must be filed with the Registrar of Companies/Financial Services Commission within six months of the close of the financial year (this is applicable to companies other than small proprietary companies and GBC2 companies)
- GBC’s must file an annual report and financial statements with the FSC
- the FSC must be notified if a person becomes the holder of 20% or more of the company’s shares or a GBC company’s voting powers

## OFFSHORE COMPANIES (GBC 1 COMPANIES)

GBC1 companies are one of the most popular offshore products in Mauritius. The Companies Act 2001 and the Financial Services Act 2007 now govern the registration and incorporation of GBC1 companies.

At present more than 10 000 GBC1 companies have been incorporated in Mauritius. Most of them have been incorporated to take advantage of the Mauritian network of double tax treaties. An application for incorporation of GBC1 companies must be channelled through the FSC through a management company.

A GBC1 company may be set up by direct incorporation either with or without a constitution, or by registration of a branch of a foreign company or by way of continuation if the law in the country of origin allows continuation following deregistration. An application for a GBC1 company should be accompanied by:

- a business plan of the proposed activities to be carried out by the applicant
- the applicable processing fee
- a legal certificate signed by a law practitioner in Mauritius
- supporting certified copies of Customer Due Diligence documentation
- incorporation documents including:
- copy of constitution (where adopted) and of the legal certificate required under the Companies Act 2001
- certified copies of relevant statutory forms required under the Companies Act 2001 for the incorporation of a company

The application is submitted to the FSC. The FSC will process the application for the licence for the GBC1 and send the application to the Registrar of Companies for incorporation of the company as a GBC1 company.

A GBC1 company incorporated in Mauritius may elect to be resident in Mauritius and may take advantage of its wide network of double tax treaties. A GBC1 company which elects to be resident in Mauritius for tax treaty purposes may apply for a tax residence certificate if the following conditions are satisfied:

- two directors must be resident in Mauritius, of sufficient calibre to exercise independence of mind and judgement (a GBC1 company may have one director, like all other



companies that may be registered in Mauritius, but for tax treaty purposes the company must be managed by at least two directors resident in Mauritius at all times)

- the registered office and the secretary of the company must be in Mauritius
- board meetings must be held in or chaired from Mauritius
- banking transactions must at all times be channelled through a bank account with a bank holding a banking licence in Mauritius
- statutory records, such as minutes of meetings and the members' register, must be kept at the registered office
- accounting records must be maintained at its registered office in Mauritius in accordance with the Companies Act 2001
- the auditors must be resident in Mauritius and must have its statutory financial statements to be audited in Mauritius.

In determining whether the conduct of business is managed or will be managed and controlled from Mauritius, the FSC is required to take into consideration whether a corporation:

- will have or has at least 2 directors, resident in Mauritius, who are appropriately qualified and are of sufficient calibre to exercise independence of mind and judgment
- will maintain or is maintaining at all times its principal bank account in Mauritius
- will keep and maintain or is keeping and maintaining, at all times, its accounting records at its registered office in Mauritius
- will prepare, or proposes to prepare or prepares its statutory financial statements and causes or proposes to have such financial statements to be audited in Mauritius
- will provide or provides for meetings' of directors to include at least 2 directors from Mauritius
- which is authorised/licensed as a collective investment scheme, closed end fund or external pension scheme, is administered from Mauritius.

In addition to the above, the FSC will also take into account whether a corporation meets at least one of the following criteria:

- the corporation has or will have office premises in Mauritius
- the corporation employs or will employ on a full time basis at administrative/technical level, at least one person who must be resident in Mauritius
- the corporation's constitution contains a clause whereby all disputes arising out of the constitution will be resolved by way of arbitration in Mauritius
- the corporation holds or is expected to hold within the next 12 months, assets (excluding cash held in bank accounts or shares/interests in another corporation holding a Global Business Licence) which are worth at least US \$100 000 in Mauritius
- the corporation's shares are listed on a securities exchange licensed by the Commission
- it has or is expected to have a yearly expenditure in Mauritius which can be reasonably expected from any similar corporation which is controlled and managed from Mauritius

GBC1 Companies have to comply with these requirements by 1 January 2015.

## COMPANIES HOLDING CATEGORY 2 GLOBAL BUSINESS LICENCES (GBC2 COMPANIES)

A GBC2 company provides for greater confidentiality and is suited for holding and managing private assets. A GBC2 company is a non-resident company and therefore is exempt from tax in Mauritius. It cannot take advantage of tax treaties or operate in the free-port sector. A GBC2 company may be registered by way of direct incorporation, with or without a constitution, by way of continuation from its country of origin or by way of conversion from a GBC1 company status into a GBC2 status.

A GBC2 company must have a registered agent, who may be a management company or person approved by the FSC and a registered office at all times in Mauritius, where all statutory books and records must be kept. Registered agents must submit an application for registration to the Registrar of Companies together with the forms duly completed and signed and the constitution, if the company is to have one.

Shareholders' or directors' meetings may be held in or outside Mauritius as may be determined by the constitution of the company. Meetings may also be held by telephone or other electronic means and shareholders may be represented by proxy. The management of the company must be carried out by the board of directors consisting of at least one director who may be an individual or a body corporate. A GBC2 company is not resident in Mauritius, and therefore there is no need for directors to be ordinarily resident in Mauritius.

From now on, as long as GBC2 companies demonstrate that management, control and ownership are maintained outside Mauritius, Mauritian participation will be considered a GBC2.

However, where a Mauritian resident proposes to hold shares in a GBC2 company, the latter is required to demonstrate to the FSC that the Mauritian resident does not hold any 'management and control' in that company.

In addition, the FSC Mauritius may also have regard to whether the group structure of the GBC2 company is creating 'economic substance' in Mauritius.

A GBC2 company can be held by a GBC1 company provided that, at any point the shareholders of the GBC1 do not include a Mauritian resident which has 'management and control' in the GBC1.

A GBC2 company will be considered as being managed and controlled in Mauritius if decision-making takes place in Mauritius and the resident shareholder(s) of the GBC2 company is/are a 'controller' in relation to the corporation.



A Mauritian resident may hold shares in a GBC2 company if it can demonstrate that the overall group structure has strong economic impact in Mauritius. For instance, the FSC Mauritius will consider whether the proposal will generate revenue in Mauritius, whether the proposal is likely to create employment in Mauritius, or the impact of the proposal on the development of the country.

## TRUSTS

Mauritius has introduced trust law for the benefit of both residents and offshore settlors. Prior to 2001, the Trust Act 1989 allowed the creation of domestic trusts based on the traditional English model, and the Offshore Trusts Act 1992 allowed the creation of offshore trusts. The Trust Act 1989 and the Offshore Trusts Act 1992 have been repealed by the Trusts Act 2001 ("TA 2001") which was introduced to fuse the domestic trust and offshore trust legislation in a bid to avoid ring-fencing. However, a distinction is still apparent and foreign settlors are in a more advantageous position than domestic settlors. Section 3 of TA 2001 provides that a trust exists where a person (known as a trustee) holds or has vested in him, or is deemed to hold or have vested in him, property of which he is not the owner in his own right, with a fiduciary obligation to hold, use, deal or dispose of it for the benefit of any person (a beneficiary), whether or not yet ascertained or in existence, or for any purpose, including a charitable purpose, which is not for the benefit only of the trustee.

Every person of full age, of sound mind and who has legal capacity to contract may create a trust and vest the property in a trustee for any lawful object other than the carrying on of any trade or business. The settlor may also be a trustee, a beneficiary, a protector or an enforcer but he/she cannot be the sole beneficiary of a trust of which he/she is the settlor.

Any property may be held by or vested in a trustee on trust. The trust property may consist of any movable or immovable property and any interest in such property including, in the case of a charitable trust, such donations as the trustees may receive. There are, however, a number of restrictions.

A major restriction under TA 2001 relates to non-citizens of Mauritius. Section 22 of TA 2001 provides that no person shall create a trust of immovable property located in Mauritius for the benefit of a non-citizen or a person who is a non-resident of Mauritius except with the authority of the Prime Minister and on such terms and conditions as the Prime Minister may specify. This restriction on foreign owners is consistent with the Non-Citizen (Property Restriction) Act which prohibits non-citizens of Mauritius from acquiring and holding property in Mauritius without the express authorisation of the Prime Minister's Office. TA 2001 further provides that the appointment of a non-citizen as beneficiary of a trust, the trust property of which includes immovable property situated in Mauritius, shall be void and of no effect.

Under TA 2001, the settlor may set up any of the following types of trust: protective trust or spendthrift trust, maintenance and accumulation trust, interest in possession trust, discretionary trust, charitable trust, purpose trust and commercial and trading trust.

The settlor of an offshore trust may not be a resident of Mauritius, and the trust must have at least one qualified trustee who is a person residing in Mauritius or a Mauritian management company or a bank authorised by the FSC to provide trusteeship services (a 'qualified trustee').

The Investment Promotion Act has been amended to allow non-resident settlors or non-resident beneficiaries of a trust to own immovable property in Mauritius solely under the Integrated Residential Schemes ("IRS") and the Real Estate Scheme ("RES") without the approval of the Prime Ministers' Office under the Non-Citizens (Property Restrictions) Act 1973, as amended. Non-citizens of Mauritius wishing to avail themselves of immovable property in Mauritius under the IRS and RES may use trust or domestic company to do so subject to registration duty applicable to IRS and RES.

## FOUNDATIONS

In 2012, the Parliament of Mauritius enacted the Foundations Act whose aim is to allow the incorporation of foundations in Mauritius.

A foundation is a wealth management vehicle that is of particular appeal to countries not familiar with the concept of trusts. It has some hybrid features of both a trust and a company. A foundation can be incorporated in Mauritius for such purposes as may be provided in its charter and can be established through a will. Furthermore, it may be charitable or non-charitable (or both) to benefit a person or a class of persons. It is attractive to "High Net Worth" Individuals from civil law jurisdictions who may find in it an ideal platform for succession planning and private wealth management. It can elect to have a legal personality through registration with the Registrar of Companies (acting also as Registrar of Foundations) and can accordingly have full capacity to transact and institute legal proceedings in its own name. The latter feature is one of the main characteristics that distinguish a foundation from a trust. In a foundation, ownership of the assets is transferred to the foundation itself by the founder in order to achieve the purposes and objects of the foundation.

## EXCHANGE CONTROLS

Exchange controls have been suspended.

## TAXATION

Taxation in Mauritius is regulated by the Income Tax Act and its regulations. The Mauritius Revenue Authority (MRA) is the regulator. Mauritius offers both a low tax jurisdiction and competitively priced business costs. The Mauritius tax regime is one of the lowest in the world.

The following tax incentives are available to domestic and foreign investors:

- Income tax: Under the Income Tax Act, domestic companies and companies holding a GBC1 benefit from an income tax rate of 15%. In the case of a GBC1 the income tax rate



may be reduced to 3% after application of deemed foreign tax credits. Corporations which hold a category 2 Global Business licence are exempt from tax but are not considered as residents for tax purposes

- no capital gains tax
- royalties, interest and services fees payable to foreign affiliates are allowed as expenses provided they are reasonable and correspond to actual expenses incurred
- interest paid on deposits in a bank holding category 2 banking licences are tax exempt
- dividends are tax exempt
- no withholding tax on interest and royalties paid by a GBC1 or GBC2 company to non-residents
- no estate duty or inheritance tax is payable on the inheritance of shares in an entity holding a Global Business Licence (GBL)

### FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

On 27 December 2013, Mauritius and the US signed a Tax Information Exchange Agreement (TIEA) and a Model 1 Intergovernmental Agreement (“IGA”) in relation to FATCA. The ‘Agreement for the Exchange of Information Relating to Taxes (United States of America - FATCA Implementation) Regulations 2014’ was published in the Government Gazette of 5 July 2014 and was made under section 76 of the Income Tax Act to facilitate the implementation of the IGA by the Mauritius Revenue Authority.

Although FATCA is a US statute it imposes on foreign financial institutions (“FFI”) established outside the US certain obligations to withhold tax on behalf of, and report and disclose information to, the US Internal Revenue Service. FFIs are non-US entities that take deposits in the ordinary course of banking or other similar business, hold financial assets for the account of others, engage primarily in the business of investing, reinvesting, or trading in securities, partnership interests or commodities, or conduct certain business as insurance companies.

The type of IGA signed is of utmost importance because it will determine whether FFIs will be required either to report information directly to local revenue services, which will in turn supply the information received to the US Internal Revenue Service (Model 1 IGA), or to report the information directly to the US Internal Revenue Service (Model 2 IGA).

FFIs within the scope of FATCA are required to report directly to the Mauritius Revenue Authority which will then transmit the information to the US Internal Revenue Service.

Banks, management companies and global business companies are now required to undergo a due diligence. The TIEA provides a list of exempt beneficial owners, and deemed compliant entities, such as governmental entities, international organisations, central banks, certain retirement funds, certain local banks with local client bases, qualified credit card issuers, controlled foreign corporations, investment advisers and investment managers and certain collective investment schemes. The TIEA also provides for some exempt products, including certain retirement and pension accounts, term life insurance contracts, accounts held by an estate, certain escrow account in connection with a court order or judgment.

### INTELLECTUAL PROPERTY

Protection is provided by statute, more specifically by the Patents, Industrial + Designs and Trademarks Act, the Copyright Act and the Customs Act.

### FINANCIAL SERVICES / INSURANCE

The Financial Services Commission (FSC) was established as the regulator for the non-banking financial services sector under the Financial Services Act. The FSC is the integrated regulator for the industry and its remit encompasses those of the former regulatory bodies for securities (Stock Exchange Commission), insurance (Insurance Division of the Ministry of Economic Development, Financial Services and Corporate Affairs) and global business (Mauritius Offshore Business Activities Authority). The Commission thus licenses, regulates and supervises non-bank financial institutions in Mauritius.

### INVESTMENT CLIMATE AND INCENTIVES

The government has ensured that doing business in and from Mauritius is easy and efficient and complies with best practices in terms of transparency, good governance and ethics. Mauritius has enacted anti-money laundering and anti-terrorist financing legislation while the business framework itself has been made simpler. Mauritius has never been blacklisted and is not on the Organisation for Economic Co-operation and Development (OECD’s) list of suspect tax havens.

Under the Business Facilitation (Miscellaneous Promotion) Act (the “BFA”) all applications in respect of foreign investment are channelled through the Board of Investment (BOI). The Mauritian government has expressed its will to amend the BFA to remove bottlenecks and streamline procedures when investing in Mauritius. Red tape has been minimised and regulatory processes re-engineered towards controls based on clearly defined guidelines. An attractive package of incentives is provided to investors in the hotel, leisure and real estate sectors. In addition the government has in the Finance Act introduced various schemes to promote foreign investment with minimum intervention by the Mauritian authorities. The Mauritian government promotes foreign direct investment with incentives for foreign investors in the freeport sector, ICT/BPO sector, financial services sector, tertiary education sector and emerging markets such as renewable energy.

Mauritius is currently ranked at the 20th place in World Bank’s Doing Business 2015. Mauritius has therefore maintained its position as the premier location for doing business in the Sub-Saharan region for 5 consecutive years.

The Mauritian government in its 2013 budget reaffirmed its commitment to position the Mauritian investment platform as the lynchpin for African investments with regard to the rising number of global investment companies and funds using Mauritius as their base for investing. It is notable that for the first half of 2012, 47% of all new global business vehicles structured in Mauritius have had an African investment mandate. Statutes



introduced in 2012 relating to foundations, limited partnerships and private pension funds further complement the product offerings of the jurisdiction as a financial centre of choice for the region.

Government incentives for investment include a low corporate tax rate of 15%, exemption from customs and excise duties on imports of equipment and raw materials, a low rate of 5% registration duty for notarial deeds, free repatriation of profits, dividends and capital, reduced tariffs for electricity and water and the possibility for foreign investors to acquire immovable property and obtain permanent residency under the Integrated Residential Scheme (IRS) and Real Estate Scheme (RES).

Under the IRS a foreign company or a non-resident is allowed to buy immovable property for a minimum of USD 500 000 (about €364 870) and is eligible to be granted residency. In addition a corporation holding a category 1 Global Business Licence may acquire immovable property where authorised by the terms of its licence.

### DOUBLE TAXATION AVOIDANCE TREATIES (DTA)

Mauritius has concluded 43 double tax treaties and several treaties are under negotiation. The treaties currently in force are with Australia (partial), Barbados, Belgium, Botswana, Congo, Croatia, Cyprus, Democratic Socialist Republic of Sri Lanka, Egypt, France, Germany, Guernsey, India, Italy, Kuwait, Lesotho, Luxembourg, Madagascar, Malaysia, Malta, Monaco, Mozambique, Namibia, Nepal, Oman, Pakistan, People's Republic of Bangladesh, People's Republic of China, Rwanda, Senegal, Seychelles, Singapore, South Africa, State of Qatar, Swaziland, Sweden, Thailand, Tunisia, Uganda, United Arab Emirates, United Kingdom, Zambia and Zimbabwe.

Treaties with Gabon, Russia, Morocco, Kenya and Nigeria await ratification and treaties with Burkina Faso, Cape Verde and Ghana await signature. Treaties are being negotiated with Algeria, Canada, Czech Republic, Greece, Hong Kong, Lesotho, Malawi, Montenegro, North Sudan, Portugal, Republic of Iran, Saudi Arabia, Spain, St Kitts & Nevis, Tanzania, Vietnam and Yemen.

A Tax Information Exchange Agreement has been signed with India to promote international co-operation and effective exchange of information between the Mauritius Revenue Authority and the Securities and Exchange Board of India while preserving and protecting taxpayer's confidentiality. Other Tax Information Exchange Agreements are in force with Australia, Denmark, Finland, Norway, States of Guernsey, Iceland and the US. Following the recent re-negotiation of the Mauritius-India Tax Treaty, investments already made by Mauritius structures and those to be made up to 31 March 2017 are protected under the Protocol and will continue to derive advantages from capital gains tax exemption.

Mauritius structures, particularly Foreign Portfolio Investors, looking at investing post 1 April 2017 for an eventual disposal by 31 March 2019 should review their operations in Mauritius and reinforce substance with a view to meeting the Limitation on Benefits (LOB) Clause. Mauritius remains a favourable jurisdiction for debt structuring into India given its favourable

withholding tax rate on interest of 7.5% compared to Singapore-India (10%/15%), Cyprus-India (10%) and Netherlands-India (10%/15%). Moreover, it is also generally more favourable compared to domestic tax rates in India.

### INVESTMENT PROMOTION AND PROTECTION AGREEMENTS

Investment Promotion and Protection Agreements (IPPA) have been signed and are in force with the following countries: Barbados, Belgium/Luxemburg Economic Union, Burundi, China, Czech Republic, Finland, France, Germany, India, Indonesia, Madagascar, Mozambique, Pakistan, Portugal, Republic of Korea, Romania, Senegal, Singapore, South Africa, Sweden, Switzerland and UK and Northern Ireland.

Investment Promotion and Protection Agreements with the following countries are awaiting ratification: Benin, Botswana, Cameroon, Comoros, Ghana, Guinea Republic, Mauritania, Nepal, Republic of Congo, Rwanda, Swaziland, Chad, Tanzania and Zimbabwe.

### BILATERAL TREATIES - PREFERENTIAL TRADE AGREEMENT

There is a Preferential Trade Agreement (PTA) between Mauritius and Pakistan and an Interim Economic Partnership Agreement (EPA) between the Eastern and Southern African region and the European Union.

### MEMBERSHIP OF INTERNATIONAL AND REGIONAL ORGANISATIONS

Mauritius has secured preferential access to markets with the European Union through the Cotonou agreement; with the US under the Africa Growth and Opportunity Act and with Eastern and Southern Africa through the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC).

### AGRICULTURE AND AQUACULTURE

Industrial Crops comprising sugarcane, tea and tobacco constitute 37% of Mauritian agriculture while food-crops account for 22%, livestock for 23% and flowers, fruits and forestry account for 4%. The government supports the agricultural sector through food security strategies that are already bearing fruit. An innovative step is the local cultivation of rice with the aim of supplying the local market and for export. Furthermore, development of the agribusiness sector is high on the agenda of the Mauritian Board of Investment. It plans to attract further foreign investment in areas such as large-scale hydroponic farming, animal feed production, cattle breeding and high value added food processing for export.

The government has implemented a plan to develop Mauritius as a world-class seafood hub. This sector has enormous business potential due to the wide exclusive economic zone of 1.9 million km<sup>2</sup>, port facilities and an attractive business environment. The further development of the Mauritian seafood



industry focuses on: (i) maximising value from the landings of catches in the region, namely through the development of further processing activities for high-graded products such as Sashimi tuna; and (ii) developing sustainable eco-friendly aquaculture following new legislation authorising fish farming in the sea. Aquaculture in Mauritius has significant potential and a study has identified sites suitable for fish farming.

Situated in one of the world's cleanest oceans, Mauritius offers investment opportunities in:

- Lagoon cage culture with a production range of 300 to 500 tonnes per production unit
- Offshore lagoon cage culture with an approximate production capacity of 2000 tonnes per production unit
- Inland aquaculture farms
- Tuna ranching & fattening in cages, and
- Hi-tech production techniques such as aqua pods

Mauritius has preferential market access for its seafood products to the European market through a partial EPA, the US market under the AGOA as well as COMESA and SADC countries.

## HOSPITALITY & PROPERTY DEVELOPMENT

The property development sector, or real estate, is a market that attracts a range of international investors, lenders, occupiers and developers seeking cross-border opportunities. The sub-sectors include the Integrated Resort Scheme (IRS), the Real Estate Scheme (RES), the Invest Hotel Scheme (IHS), business and industrial parks, shopping malls, office buildings and marina development.

One of the measures announced in the 2015/2016 budget was the restructuring of the Integrated Resort Scheme (IRS) and Real Estate Scheme (RES). As a result, the Investment Promotion Act has been amended through the Finance (Miscellaneous Provisions) Act 2015.

The Investment Promotion Act makes provision for the introduction of a Smart City Scheme (SCS) and a Property Development Scheme (PDS). The two new schemes will be administered by the Board of Investment ("BOI") under a new set of Regulations. Government will come up with a clear roadmap and guidelines for the development of these projects that will be prescribed shortly.

The Smart City Scheme will promote targeted economic activities while at the same time consolidating the industrial and service base. The Property Development Scheme (PDS) will attract investment from abroad by allowing non-citizens to acquire residential properties under the Scheme. Letters of approval or certificates issued to companies to develop an IRS or RES project will continue to remain in force. Non-citizens acquiring immovable property under IRS or RES, for more than USD 500 000 or its equivalent, will still be eligible to apply for a residence permit.

## SMART CITIES

The Smart City Scheme is an ambitious economic development program aimed at consolidating the Mauritian international business and financial hub by creating ideal

conditions for working, living and spurring investment through the development of smart cities across the island. There are a number of fiscal and non-fiscal incentives for investors to develop smart cities.

The smart city project is a new initiative to stimulate innovative scientific and technological activities, provide technology-driven facilities to the business community and create a vibrant city lifestyle.

These new cities will be built around the work-live-play lifestyle in a vibrant environment with technology and innovation at their core.

The concept paves the way for investors to develop and invest in:

- a mix of commercial, leisure and residential uses that, as a whole, achieves physical and functional integration and creates a pedestrian-oriented urban environment
- a combination of office, light industrial, education, medical and tourism clusters
- high technology and innovation cluster
- infrastructure to service green-field sites with roads and inspiring landscaping
- clean technology aimed at carbon and waste reduction, efficient transport
- low-energy-consumption buildings
- digital solutions, urban sensing technologies and big data analytics
- energy production and water management and utilities
- high-end residential estate
- real estate investment management.

## INCENTIVES

A company investing in the development of a smart city and/or its components is exempt from payment of:

- Income Tax for a period of 8 years from the issue of the SCS Certificate, provided that the income is derived from an activity pertaining to the development and sale, rental or management of immovable property other than an activity in respect of the supply of goods and services
- Value Added Tax paid on capital goods (building, structure, plant, machinery or equipment)
- Customs duty on the import or purchase of any dutiable goods, other than furniture, to be used in infrastructure works and construction of building within the Scheme
- Land Transfer Tax and Registration Duty on transfer of land to a SPV provided that the transferor holds shares in the SPV equivalent to at least the value of the land transferred
- Land Conversion Tax in respect of the land area earmarked for the development of non-residential components (office and business parks, ICT and innovation clusters, touristic, leisure and entertainment facilities including hotels and golf courses, renewable energy and green initiatives)
- Morcellement Tax for the subdivision of land.



## OTHER TAX INCENTIVES

- First-time Mauritian buyers and buyers under the Mauritian Diaspora Scheme acquiring a residential unit will be exempt from registration duty
- Full recovery of VAT in terms of input tax allowable in terms of capital goods (building structure), plant, machinery and equipment
- Accelerated annual allowance granted at a rate of 50% of the costs in respect of capital expenditure incurred by any company operating within the Smart City Scheme on energy-efficient equipment and green technology.
- Accelerated annual allowance granted at a rate of 50% of the costs in respect of capital expenditure incurred by any company operating within the Smart City Scheme on energy-efficient equipment and green technology.

## LAND PURCHASE

A smart city will be developed over an area exceeding 21 105 hectares (50 arpents). Foreign companies can acquire land under the Smart City Scheme to develop projects and their key components

## RESIDENCY

- Any person or entity including foreign companies and trusts can acquire residential units in a smart city
- Any non-citizen acquiring a residential unit above USD 500 000 under the scheme is eligible for a residence permit for himself and his family
- No restriction on rental or resale of residential units
- Possibility for a retired person to acquire life rights under the Smart City Scheme.

## MAURITIAN CITIZENSHIP

A non-citizen having held a residence permit for a minimum period of 2 years and having made an investment over USD 5 million in Mauritius may apply for Mauritian citizenship.

## SALE OF SERVICED LAND TO THIRD-PARTY DEVELOPERS

The master developer may sell serviced land to another company to develop a component of a smart city project.

## INFORMATION TECHNOLOGY (IT) / BUSINESS PROCESS OUTSOURCING (BPO)

The government intends to make the Information and Communications Technology (ICT) sector a pillar of the economy and transform Mauritius into a regional ICT hub to position Mauritius as a major destination in the region for investments in this sector. Through a well-developed and reliable infrastructure, excellent telecommunication facilities and access to a scalable and stable power grid, Mauritius is emerging as a regional hub for the provision of outsourcing and telecoms services. The government of Mauritius has set the building blocks to position Mauritius as a global centre for data hosting, disaster recovery, shared, cloud computing services and other high value added services.

Mauritius is building on existing infrastructure (such as the Ebene Cyber City and the Informatics parks) and also investing in the creation of state of the art IT/BPO poles namely, the Rose Belle Business Park and the forthcoming Eco Park which will enable data centre infrastructure projects. Additionally the creation of an ICT academy will cater for training needs of the workforce for international standard service delivery in the IT/BPO sector. The ICT sector will be characterised by the delivery of complex services with higher value and higher margins. New segments such as online gaming and online media will also be explored. To boost this sector, a second undersea fibre optic cable, LION 2 has been operational in Mauritius since March 2012, thus ensuring continuity of service at all times; and the Mauritius government endeavour to provide work and residency permits (occupation permits) to workers in the ICT/BPO earning a minimum salary.

## FREEPORT

The Mauritius Freeport is a sector that offers enormous potential with a 2.5% growth rate and a connection to more than 400 million consumers in the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC). It contributes 9% of GDP. In 2008/09 a further 25 freeport projects were approved by the Mauritian Board of Investment with a total investment value exceeding MUR 700 Million.

A tax holiday for freeport operators which was due to end in 2013 will now continue indefinitely and a zero per cent corporate tax rate from 1 July 2013 will provide more certainty to freeport operators and enhance Mauritius as a regional trade, marketing and distribution platform. This measure will give a strong boost to the sector and help to further increase cross-border trade.

## RENEWABLE ENERGY AND THE ENVIRONMENT

The 'Maurice Ile Durable' project (MID) is central to the development of Mauritius and is intended to become a leader in renewable energy and sustainable development in the region.

## HEALTHCARE

Mauritius has a fast growing healthcare and life sciences industry and is set to become a major healthcare, wellness and medical outsourcing hub, supported by strong pharmaceutical, biotech and medical devices industries, driven by high-end biomedical research and innovation. Mauritius is a leading destination for medical travel with an increase from 1500 foreign patients in 2007 to nearly 10 000 in 2012. In 2014 approximately 15,000 foreign visitors came for treatment in Mauritian private clinics.

## INFRASTRUCTURE

Mauritius has a well-developed network of internal and external communications, an extensive and well-maintained road infrastructure, a modern and efficient port capable of berthing vessels up to 100 metres, a web of sea links and direct air connections with several cities around the world, high band





fibre cable connectivity, a reliable fixed and mobile telephone network, express courier service providers and freight forwarders, fully serviced business and industrial parks and a free port.

## WATER

The Central Water Authority (CWA) is responsible for the control, development and conservation of water resources and the treatment and distribution of water for domestic, industrial and commercial purposes throughout Mauritius. The CWA operates under the Ministry of Public Utilities. Potable water supplied by the CWA is treated to meet norms met by the World Health Organisation (WHO) for drinkable water. The Ministry of Health and Quality of Life conducts independent tests to ensure CWA's compliance with the norms set by both the WHO and the Ministry of Environment. Water is maintained and supplied via reservoirs, dams, springs, rivers and groundwater abstraction. Mauritius has abundant rain water.

## ENERGY

The Central Electricity Board (CEB) is a parastatal body wholly owned by the government. It reports to the Ministry of Renewable Energy and Public Utilities. The CEB's business is to "prepare and carry out development schemes with the general object of promoting, coordinating and improving the generation, transmission, distribution and sale of electricity" in Mauritius. The CEB produces around 40% of the country's total power requirements from its 4 thermal power stations and 8 hydroelectric plants. The remaining 60% is purchased from Independent Power Producers. Currently, the CEB is the sole organisation responsible for the transmission, distribution and supply of electricity to the population. The supply of electricity in Mauritius is stable.

## TELECOMMUNICATIONS

An excellent telecommunication network and a good pool of IT specialists enables the use of the latest software products. Some leading companies such as Microsoft and Hewlett Packard have opened branches in Mauritius. Growth and employment in the IT sector is expected. Mauritius Telecom (MT) has announced the commercial launch of its fibre-to-the-home and business high speed internet networks, offering connectivity at up to 100 Mbps in selected areas.

## TOURISM

Tourism contributes significantly to economic growth and has been a key factor in the overall development of Mauritius. The sector contributes approximately 18% to the country's GDP. In the past two decades tourist arrivals increased at an average annual rate of 9% with a corresponding increase of about 21% in tourism receipts.

## MANUFACTURING SECTOR

Since the establishment of the Export Processing Zone (EPZ) the manufacturing sector has attracted substantial foreign direct investment (FDI) from various parts of the world including Europe, USA, India, Hong Kong, Taiwan, China, Japan,

Australia and South Africa. More than 800 manufacturing companies, of which some 500 are export-oriented, produce a wide variety of quality products such as textiles and apparel, light engineering products, precision plastics, electronics and electrical components, jewellery and horology items, printed materials, toys, and miniature ship models, amongst others. Manufacturing is one of the main pillars of the economy and remains a major foreign exchange earner for Mauritius. The manufacturing sector is now moving up the value chain with new players, both local and foreign, in new activities, with more job opportunities for graduates and skilled labour. Activities requiring specialised skills are developing in Mauritius, such activities include high precision engineering and production processes on CNC machines.

## TEXTILES

The textile industry, forming a substantial part of the manufacturing sector, is one of the main pillars of the Mauritian economy. It has undergone many changes in its almost thirty years of existence. Equipped with a highly skilled labour force and efficient management practices Mauritius manufactures products of excellence like Boss and Ralph Lauren for export to the European Union and the United States. Great emphasis is laid on quality control. To face the present economic situation, investments are being made in new technology with the aim of making Mauritius a centre for capital-intensive activities such as spinning, weaving, design, marketing and logistics.

## FINANCIAL SECTOR

The Mauritian financial sector has become, over recent years, a major contributor to the Mauritian economy with financial intermediation accounting for around 10% of GDP in 2010. As an International Financial Centre (IFC) Mauritius is committed to compliance with internationally agreed norms and has ensured over the years that it was and is seen to be a reputable IFC. The Mauritian IFC has gained international recognition as a safe and trusted jurisdiction by the Organisation for Economic Co-operation and Development (OECD), Financial Action Task Force (FATF), International Organisation of Securities Commission (IOSCO), International Association of Insurance Supervisors (IAIS) and IFSB amongst others. The country is ranked 28th globally and first in Africa in the 2015 World Bank Doing Business Report. The IMF & the World Bank favourably assessed the Financial Sector of Mauritius under the Financial Sector Assessment Programme. Mauritius also offers international businesses a high-quality financial environment with sophisticated products.

## FAMILY OFFICE

A "family office" regulates all forms of organisations and services involved in managing large private fortunes. These may be organised either as family-owned companies, in which the family wealth is pooled, or as companies or bank departments that provide financial services for these clients, while the family retains decision-making powers. There is no set model for organising a family office and every model is



devised and organised on a case-by-case basis.

The Family Office is regarded as a family governance mechanism. For families to propose the creation of a Family Office as a structure for their wealth management, their wealth has to be sizeable in order to justify the costs and the direct management involved. Owners of a Family Office are members of a family whose wealth is the result of business success and who have decided to manage their wealth. Innovation in Family Office management has resulted in these structures becoming professional organisations. There has been a trend in recent years among ultra-high-net-worth individuals (UHNWI) to resort to multiple service providers rather than one individual private banking firm. The setting up of a Family Office, therefore, is not only a response to current conditions but is, rather, a growing phenomenon as many UHNWI are members of entrepreneurial families that fit the profile used to describe possible Family Office creators.

As a well-regarded International Financial Centre, Mauritius has endorsed numerous international good governance conventions. The court structure of Mauritius along with numerous fiscal benefits such as no Capital Gains Tax and the capacity for treaty-based tax organization through its web of Double Taxation Avoidance Treaties enjoyed by Mauritius internationally makes the country a domicile of choice for the setting up of a Family Offices. It offers interesting structuring opportunities for family offices which may be set-up as a company, trust or private foundation. The peculiarity of Mauritius is that it enjoys a reputable status in the leisure and tourism industry, as well as a successful Integrated Resort Scheme (IRS), boasting luxury real estate.

The 2016-2017 Budget of the Government of Mauritius paved the way for the advancement of Mauritius into its next phase of development. A plethora of measures have been announced to re-invigorate the vital sectors of the Mauritian economy, including the financial services sector.

The measures announced in the financial services sphere set the tone for the graduation of the Mauritius International Financial Centre (IFC) towards greater sophistication, higher value addition, and competitive offering.

The budgetary measure with respect to Family Offices include:

#### **Wealth Management Budget Measures:**

- Companies holding an 'Overseas Family Corporation' licence delivered by the FSC will be given a five year tax holiday
- Foreign Ultra High Net Worth Individuals investing a minimum of USD 25 million in Mauritius will be given a five year tax holiday

Through the introduction of the Overseas Family Corporations (OFCs) licence, international High Net Worth families will be able to manage their wealth from Mauritius by setting up their family offices in the Mauritius IFC. The new family office regime will equally allow the Mauritius IFC to tap into the growing regional and global movement of wealth and capital in search of a stable and secure wealth management centre.

#### **Headquartering and Treasury Management Budget Measures:**

- Companies holding a 'Global Headquarters Administration Licence' issued by the FSC will be granted an eight year tax holiday
- Companies holding a 'Treasury Management Centre License' delivered by the FSC will be provided with a five year tax holiday

The Global Headquarters Administration Licence and the Treasury Management Centre Licence enhance Mauritius' position as a regional financial and business hub. MNCs will therefore be able to set up their regional administration, procurement and accounting offices, as well as conduct treasury management activities in the Mauritius IFC.

#### **CAPTIVE INSURANCE**

In Mauritius insurance legislation is regulated by the Insurance Act 2005 and the Insurance (Amendment) Act 2007. The Financial Services Commission of Mauritius is the supervisory body for all non-banking financial services business and is also responsible for licensing, under The Insurance Act 2005.

The Captive Insurance Act 2015 was recently passed before the National Assembly with the aim of making Mauritius an attractive destination for captive insurers. The Act applies solely to "pure captives." The term pure captive, also referred to as single-parent captives, is generally used to describe captives insuring the risks of parent and affiliated corporations only. A "pure" captive, is capitalised and domiciled in a jurisdiction with captive-enabling legislation which allows the captive to operate as a licensed insurer. The parent company identifies the risks of its subsidiaries that it wants the captive to underwrite. The captive evaluates the risks, writes policies, sets premium levels and accepts premium payments. The subsidiaries then pay the captive premium payments and the captive, like any insurer, invests the premium payments for future claim pay-outs. In Mauritius, Captive insurers can be licensed as Global Business Companies Category I and will operate under the aegis of the Financial Services Commission which will act as regulator. The Financial Services Commission has recently released the Captive Insurance (Pure Captive Insurance Business) Rules 2016.

The Captive Insurance Act 2015 amends the Income Tax Act to the effect that, "income derived by a person licensed under the Captive Insurance Act 2015 during a period not exceeding 10 years from the coming into operation of the Act or such other period as may be prescribed." Captive Insurers will also benefit from numerous Double Taxation Agreements (DTAs) and the Investment Protection and Promotion Agreements (IPPAs) signed by Mauritius.

#### **Licensing Procedures for Captive Insurance business in Mauritius**

A Captive Insurer will be licensed under the Financial Services Act 2007 to hold a Category 1 Global Business Licence ("GBL1") and issued with an "External Insurance Business" licence under The Insurance Act 2005. In addition to complying with the



requirements for the incorporation of a GBL1, an application for a captive insurance business licence shall be made to the Financial Services Commission and shall be accompanied by –

- A business plan, including a description of intended classes of business and cover, limits of liability, details of reliance placed on reinsurers, outline of investment and dividend strategies; the amount and liquidity of its assets relative to the risks to be assumed; the overall soundness of its plan of operation; and a projected balance sheet, profit forecast and statement of cash flows;
- The investment policy of the captive insurance business;
- Information on the adequacy of the expertise, experience and character of the persons who will manage the captive insurance business;
- Information on the adequacy of the loss prevention programmes of the policyholders of the applicant;
- A certified copy of the incorporation documents of the applicant;
- Particulars of any substantial shareholder, director, captive insurance agent or of any person being proposed to act as an officer of the captive insurer.;
- A non-refundable prescribed fee;
- The Commission may require an applicant to retain, at his own cost, external and independent legal, financial or examination services to review the qualifications of the applicant or of his captive insurance agent and make recommendations to the Commission;
- A captive insurer is obliged to pay an annual fee prescribed in the FSC Rules.

## LABOUR RELATIONS

Labour relations in Mauritius is governed by the Employment Relations Act which amends and consolidates the law relating to trade unions, fundamental rights of workers and employers, collective bargaining, labour disputes and related matters. Strike action which was almost impossible under the earlier Act but is now allowed. New bodies and institutions (the Employment Relations Tribunal, the Commission for Conciliation and Mediation and the National Remuneration Board) have been created to settle labour disputes. The use of arbitration, mediation and conciliation for the efficient resolution of labour disputes is promoted.

