MAURITIUS FINANCE

Mauritius International Financial Centre

A Mauritius Finance Publication • May 2021 • Issue 1

Interview
High Commissioner of India to the Republic of Mauritius

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A new start

Much like 2020, this year has ushered in numerous challenges for the financial services sector, yet there are many opportunities to be seized amid testing times. The sector has been gearing up to face the future with a single, unified voice under the Mauritius Finance umbrella. Since we officially launched in February, we have engaged in a stronger dialogue than ever before with regulators and government alike, as witnessed during the meeting between the Finance Minister and the representatives of our organisation in the context of the 2021-2022 pre-budget consultations.

The COVID-19 pandemic has disrupted the business and investment climate in almost every corner of the globe, but the financial services industry and the global business sector have been resilient, with a strong track record and a long history of adaptation to change. Even if we will surely face long term consequences from this disruption, financial sector operators in Mauritius have successfully implemented effective 'work from home protocols' and have planned ahead, thus maintaining, if not even enhancing, their level of service in 2021.

Alongside the COVID-19 pandemic, financial sector operators have also had to contend with the listing of Mauritius by the Financial Action Task Force and the European Union. Even if Mauritius has until February 2022 to comply with the FATF's action plan, the close partnership established between the public sector, regulators and market players in Mauritius has already led the money laundering and terrorist financing watchdog to acknowledge our "significant progress". As we galvanise our efforts to implement all of the recommendations ahead of the FATF onsite inspection, we remain cautiously optimistic that the country will exit the list of jurisdictions under increased monitoring well before the deadline set.

This year has also brought new challenges on the global financial scene. With the backing of the United States, the European Union and OECD members, a Global Minimum Tax (GMT) could become a reality sooner rather than later. On this front, Mauritius Finance is already working towards the setting up of a joint public and private sector working group tasked with preparing a working paper and proposals to the government. We are yet to see the substance of the international proposals and very much hope that the GMT will focus on the creation of a level playing field, as well as the implementation of a de minimus rule similar to Country-by-Country Reporting under the BEPS Action Points.

Amid this time of crisis, Mauritius has new opportunities to reinforce its place as the star and key of the Indian Ocean as well as the preferred gateway for investment into Africa, from both India and China. The Mauritius-China Free Trade Agreement and the Comprehensive Economic Cooperation and Partnership Agreement with India came into effect in January 2021 and April 2021 respectively. Both cross border investment and trade are expected to experience strong growth with these two new bilateral agreements in force.

In parallel, the launch of the African Continental Free Trade Agreement on 1 January 2021 has created significant new opportunities for the financial industry within a massive regional integration project spanning 54 countries, with a combined population of 1.3 billion people generating USD 3.4 trillion per year. The Mauritius International Financial Centre, aside from its high level of service, offers some unique features to investors willing to connect Asia to Africa. Notably, by being one of the few investment grade jurisdictions in Sub-Saharan Africa.

In the light of these agreements, Mauritius can now strengthen its position to connect the world and play a vital role in enhancing trade and investment across continents over the long term.

By Samade Jhummun, CEO, Mauritius Finance

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Mauritius, Connecting the World

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A single, unified voice for the financial services industry

Mauritius Finance is the flagship organisation that represents 120 local businesses in the financial services industry. Born of the merger between Global Finance Mauritius (GFM) and the Association of Trust and Management Companies (ATMC) in 2020, Mauritius Finance leverages on years of experience and expertise of its members in the industry. It is the leading voice for the global business industry and the broader financial services in Mauritius and is the coordinating body between operators, government and international organisations.

Founded in 2020, Mauritius Finance (MF) is the leading voice for the Financial Services Industry in Mauritius.

MF brings together leading players in the realm of the Financial Sector which comprises of Management companies, Accounting Firms, Law Firms, Banks and institutional investors, the Stock Exchange of Mauritius and all other licensees of the Financial Services Commission (FSC), aiming to develop and promote the Mauritius International Financial Centre.

The aim of Mauritius Finance is to build strong linkages between private sector operators and public authorities in Mauritius. With the other stakeholders of the Finance Industry, the organisation aims to contribute effectively in the development of strategies and policy that will position Mauritius as an International Financial Centre of substance.

The main areas of focus for Mauritius Finance can be summarised as follows:

1. Advocacy

We provide a single forum for financial services operators to discuss matters pertaining to the financial services industry. We work constructively with governments, industry regulators, tax and other authorities to ensure that policy decisions are well-informed, provide technical advice and support, and respond to consultations. We have built a strong relationship with regulators like the Financial Services Commission, key ministries and other authorities over the years and we continue to work closely for the development of the Mauritius International Financial Centre.

2. Focus on Training and Capacity Building

We seek to empower and upskill young graduates as well as existing finance professionals in the Mauritius IFC, in line with the 10 Year Blueprint on financial services.

Mauritius Finance will advance knowledge and training in areas relevant to the financial services sector and provide support in maintaining professional and ethical standards. We will do so through knowledge sharing; e-learning; hosting training sessions in the form of regular workshops/CPD and organising conferences and masterclasses in close collaboration with relevant ministries, government insitutions such as the Financial Services Institute and Human Resource Development Council (HRDC).

Mauritius Finance Board Members, CEO and COO on stage at the official launch event on 10 February 2021 with special guest, the Hon. Minister of Financial Services and Good Governance (left to right): Assad Abdullatiff, Shahed Hoolash, Samade Jhummun (CEO), Sridhar Nagarajan, John Chung, Vinod Bussawah (COO), Sunil Benimadhu, Shamima Mallam-Hassam, the Hon. Mahen Kumar Seeruttun, Mathieu Mandeng, Gordon Stuart, Ben Lim, Priscilla Balgobin-Bhoyrul and Mahesh Doorgakant (in absentia Dr Rama Sithanen)

With its bird's-eye vision of the industry's needs in terms of training and capacity building, Mauritius Finance will also build partnerships with a range of academic and professional institutions, such as the University of Mauritius (UoM), CISI, and CLT International, to pioneer effective learning which can translate into employability.

3. Engaging with authorities

As the leading voice of the financial services sector, we are fully recognised by the Government of Mauritius and its regulatory authorities. We actively engage with various institutions, bodies and Committees and we participate in different Working Groups that set the broad frameworks for future policy development.

We contribute the views of our members to pre-budgetary and other government consultations, underpinned by the work of our own Technical Committees, such as the Legal and Compliance Technical Committee, Training and Capacity Building Sub-Committee and the Shared Services Technical Committee, among others.

4. Providing value to our members

We seek to provide real added value and concrete benefits to our members, who have the opportunity to be part of the preferred dialogue partners for policy makers, ensuring that the right framework and laws are in place, and to participate in Technical Committees and meetings to help influence the future of the sector.

Furthermore, we offer networking opportunities to help our members engage with like-minded peers and enhance their networks. Our members can also benefit from the opportunity to increase their visibility, locally and internationally, through our website, magazine and social media activities, and to keep abreast of industry news through our regular member communications, such as our Newsletter, News Tracker and Technical Updates. Our members can also avail of training opportunities to ensure that their staff are fully up to date with regulatory requirements.

5. Building the foundations for future growth

As the single leading voice for the financial sector, Mauritius Finance has a vital role to play as a key partner, both for its members and the authorities, in shaping the future development of the financial services sector, building the foundations for future growth and promoting the Mauritius IFC as a sound and sophisticated jurisdiction of choice on the international stage.

Mauritius,
Connecting the World

We set out to explore what the world's largest free trade area means for Mauritius, before drilling deeper into its bilateral agreements with China and India that allow the African Continental Free Trade Agreement (AfCFTA) to become the preferred platform for linking the continent with the world.

As the economy grapples with a second wave of COVID-19 and its spillover effects, there is yet a strong ray of hope and a bright spark of optimism for a better future. Significantly, Mauritius is set to benefit from a double boost to its economy as not one but two highly awaited trade agreements with large trading partners enter into force this year. Taken together with the world's largest free trade area created under the aegis of AfCFTA, which was implemented at the start of this year and to which Mauritius is a signatory, the stage is set to revamp the Mauritian economy after the recent slow quarters in terms of trade.

Indeed, with the Mauritius-China Free Trade Agreement (FTA) and the Mauritius-India Comprehensive Economic Cooperation and Partnership Agreement (CECPA) which are effective since 1st January 2021 and 1st April 2021 respectively, global business activity and international trade flows through the island economy are expected to witness a strong growth spurt. Add AfCFTA to this already potent economic elixir, and one can clearly envisage Mauritius at the heart of regional economic activity, channelling inflows and outflows of trade and investment between Africa and China on the one hand, and Africa and India on the other.

Nirmal Lucknauth, Head of Business Development, JurisTax Group, aptly terms this as an economic renaissance for the region with Mauritius acting as a gateway for connecting the Lion with the Dragon and the Tiger respectively. He notes that, with Mauritius being part of AfCFTA, "these unprecedented bilateral trade agreements come at an opportune time for the country amidst turbulent times where the IMF has warned against a relatively difficult recovery for sub-Saharan African countries, including Mauritius."

What the world's largest free trade area means for Mauritius

At a time when much of the world is turning away from cooperation and free trade, AfCFTA is an exciting game changer. Being the most ambitious regional integration project till date, AfCFTA connects 1.3 billion people across 55 countries with a combined gross domestic product (GDP) valued at US$3.4 trillion.

First conceived on 21 March 2018 by the African Union, the AfCFTA launch was pushed by delays consequent on COVID-19 to finally take place on 01 January 2021, incidentally coinciding with the same day that the United Kingdom (UK) exited from the European Union (EU). Thus, the pact comes at a momentous time when Brexit threatens to shake the world's faith in free trade zones and COVID-19 casts a long shadow over global trade, pushing nations into a closed mindset of isolationism and nationalism.

"This free trade agreement would be the largest in the world and a game changer for intra-regional trade and flows. It is also expected that there will be a significant impact in boosting growth, employment opportunities, enhancement in general income level, reduction in poverty, and overall prosperity. In particular, AfCFTA opens up a massive opportunity in project financing related to infrastructure and logistics, directly and indirectly related to trade. Given that AfCFTA is expected to lift around 68m people out of moderate poverty, it gives us the opportunity to channel finance where it is most needed," says Danny Balluck, Executive Director & CFO at Standard Chartered Mauritius.

> At a time when much of the world is turning away from cooperation and free trade, AfCFTA is an exciting game changer

As an economy that has long been an advocate of developing economic bridges between itself and other African states, Mauritius ratified the Agreement

Nirmal Lucknauth,
Head of Business Development,
JurisTax Group

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establishing AfCFTA in October 2019. Mauritius' Africa Strategy gives the country a head-start on capitalising on AfCFTA, under which the Government of Mauritius has already earmarked a sum of around Rs 10 billion to Rs 12 billion for investment projects in Africa.

How Mauritius can leverage on AfCFTA to boost trade

Mauritius is already a signatory to two of the continent's most extensive trade blocs – the Southern African Development Community (SADC) with 16 member states and the Common Market for Eastern and Southern Africa (COMESA) with 21. Through these memberships, many foreign entrepreneurs have set up ventures in Mauritius to avail of the trade advantages offered. For example, the Mauritius Freeport has been largely built on the benefits from membership of SADC and COMESA.

> "As SMEs scale up, there is a natural tendency to look for structuring solutions which would help achieve an efficient fiscal planning and preservation of capital – this is where the Mauritius IFC comes into play."
>
> Ruben Mooneesawmy

Under AfCFTA, with regard to trade in goods, Mauritius will gain preferential access to goods where rules of origin exist. While Mauritius' trade with COMESA/SADC member states will continue on the basis of the COMESA Treaty and the SADC Trade Protocol, the AfCFTA opens up trade opportunities in non-COMESA/SADC markets having submitted their tariff schedules and ratified the agreement – such as Nigeria, Ghana, Ivory Coast, Sao Tome and Principe, Cameroon, Chad, Equatorial Guinea, Gabon, Niger, Mauritania, Sierra Leone, The Gambia, Togo, Cabo Verde and Mali.

"In particular, I believe that Ghana would be a good target to explore given its growing middle class and the fact that it is not landlocked; so freight costs to the end user can be kept relatively low," says Ruben Mooneesawmy, Founder/CEO at Axcel Insights, adding, "Similarly, Ivory Coast also forms a favourable destination for exploration under AfCFTA, with its Francophone nature giving Mauritius the edge of cultural affinity." The fact that it is accessible cross border from Ghana can only be expected to add to its appeal.

How Mauritius is set for a services spurt on the back of AfCFTA

In respect of trade in services, it can be expected that the advantages of a much larger and unified free trade area covering all of Africa will be more readily accessible in a jurisdiction like Mauritius that is rated as Africa's best place to do business by the World Bank. In particular, one can expect AfCFTA to boost investments in trade-related infrastructure, an area where Mauritius stands to gain with an ecosystem that favours the set-up of private equity funds in various verticals including infrastructure.

On this note, Danny underlines that, with the recent downgrade of South Africa's credit rating from investment grade, Mauritius still remains one of only four investment grade countries in Africa along with Botswana, Namibia and Morocco.

"One of the key objectives of AfCFTA is to facilitate investment. With Mauritius already operating as an investment platform for global corporates investing and operating in Africa, we would be reinforcing our position as a credible jurisdiction to act as an investment and trading hub in this ambitious project. A lot has been said and discussed about Africa. I believe we can do more and this is the time to accelerate the pace and participate actively in Africa's growth story. This will no doubt have a transformative impact on our economy in the next decade," he emphasises.

Moreover, the financial services sector is expected to be a key beneficiary of AfCFTA, with Ruben highlighting the global business sector, banks and insurance companies as prime candidates.

"With the implementation of AfCFTA, SMEs in Africa

Ruben Mooneesawmy, Founder/CEO at Axcel Insights

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are expected to thrive in a free trade environment and thus create more wealth along the way. As SMEs scale up, there is a natural tendency to look for structuring solutions which would help achieve an efficient fiscal planning and preservation of capital – this is where the Mauritius IFC comes into play," elaborates Ruben.

Challenges for Mauritius in realising its African destiny

Having said that, challenges remain before Mauritius can fully absorb the benefits of AfCFTA.

"First of all, domestic exports of goods to Africa for 2019 and 2020 have been practically stagnant at MUR12bn (in rupee terms), with large local companies being the biggest contributor. We need to have a more focused Africa strategy, specifically for our local SMEs, from facilitating access to capital so that they can scale their manufacturing, to pricing strategies, distributor partnerships in Africa, access to supply chain solutions providers and branding strategies to better penetrate local populations, among others," emphasises Ruben.

> "With Mauritius already operating as an investment platform for global corporates investing and operating in Africa, we would be reinforcing our position as a credible jurisdiction to act as an investment and trading hub in this ambitious project."
>
> Danny Balluck

"Secondly, air connectivity in the wake of the COVID-19 pandemic remains a big challenge. In addition to the issues with our national airline, the global slump in intercontinental air traffic is also affecting intra-African connections with many airlines in Africa bordering insolvency or cutting down fleet size or routes," concludes Ruben, while expressing the hope that such setbacks, even though they do reduce the pace of integration, are temporary in nature.

Meanwhile, Danny notes that significant policy reforms and trade facilitation measures in all member countries are critical conditions for the AfCFTA to be successful and effective.

"African countries are inherently highly fragmented in terms of size, income, infrastructure and policies. The real challenge would also be to assess the trade openness of each of the member countries and how easily and quickly each one of them can align to AfCFTA. Along the same lines, adequate legislations and regulations need to be implemented to enable free flow of goods and capital. As the volumes of goods start to increase, it is obvious that the infrastructure in ports, air transportation and other logistics must be adjusted, otherwise bottlenecks will seriously impact the whole ecosystem. Another important aspect is to have a strong institutional framework in place to enable smooth implementation and monitor intra-regional trade," he explains.

Mauritius at the heart of the African growth story

Through its global business sector, Mauritius has already established and promoted itself as a regional hub for facilitating investments into the continent. It is undeniable that AfCFTA will add further to the attractiveness of Africa as a place to do business.

Mauritius can contribute significantly to the new African impetus by making available to investors and businessmen an ecosystem that makes it easier for them to do business with Africa, and truly entrench itself as the gateway to the continent for investment and trade opportunities under AfCFTA.

"From investment protection, trade and fiscal conventions across the continent to its deep on-the-ground knowledge, the Mauritius International Financial Centre (MIFC) symbolises a centre of excellence for pan-African investments. With AfCFTA's implementation, the MIFC is poised to fearlessly accompany its strategic partners across the myriad of uncertainties inherent in the financial jungle and to unlock market access on the continent," concludes Nirmal.

Danny Balluck, Executive Director & CFO at Standard Chartered Mauritius

Mauritius: Connecting the dots between Africa and China

The year 2021 marked the start of an important trade policy development in Africa as New Year's Day witnessed a major step forward in China-Africa relations. This development came in the form of the China-Mauritius bilateral free-trade agreement (FTA), a first FTA between China and an African state.

The agreement was signed in October 2019 and entered into force on 1st January 2021. The FTA comprises of four main components which pertain to Trade in Goods, Trade in Services, Investment and Economic Cooperation.

On China's quest for collaboration with Africa, Qu Hongbin, Chief China Economist and Co-Head of Asia Economics at HSBC, notes that the Chinese government intends to build on consumption as a key driver, as evidenced in its five-year plan. Accordingly, he highlights that if China wants to continue to fulfill its destiny as the world's factory, it must look to service other markets as well.

"So, what are the potential markets in the future for China's products? Post pandemic, from China's perspective, it's going to be the emerging and developing markets. China has become the key driver in trade with Africa. In the next five years, this will become more important in the development strategy," he emphasises.

Opportunities unlocked by the Mauritius-China FTA

Sharing insights from a banking perspective, HSBC Mauritius' Chief Executive Officer, Bonnie Qiu, notes that the FTA will usher in a new dawn for the financial services sector of Mauritius, further cementing the country's position as the leading International Financial Centre for Africa and transforming it into a crucial relay point for trade between China and the continent.

She elaborates, "On produce, the introduction of zero tariffs means that Mauritian exports into China, and Chinese imports into Mauritius, will be better priced and even more attractive. For the services sector, Mauritian entrepreneurs will gain access to over 40 sectors in China which include, and are not limited to, hotels, transport, real estate, insurance, taxation, software, engineering, data services, research and development, advertising, management consulting and packaging. Chinese investors that access African markets are thus better positioned to consider Mauritius for their regional headquarters or mid/back office, to leverage its high levels of education, attractive cost to serve, and geo-political stability."

The Managing Director of Vistra (Mauritius) Limited, Shahed Hoolash, says that, in his view, the agreement is of great significance as it follows the Belt and Road initiative that Mauritius signed with China. Moreover, crucially for Mauritius, the FTA agrees to promote "the development of a Renminbi clearing and settlement facility in the territory of Mauritius", and also to share "expertise in FinTech to promote innovation in financial services".

He says, "This opens up potential tariff-free access to the continent for China. Having said that, Mauritius will have to provide infrastructure and incentives for Chinese corporations to set up operations here. This will necessarily entail numerous financial incentives which will boost demand for trade finance and other associated products. Mauritius should also aim at becoming the African jurisdiction for clearing Renminbi as this will allow corporations to deal directly with Chinese corporations without them having any FX exposure. This will set the scene for a rapid growth in Chinese companies seeking to locate regional headquarters or treasury centres for Africa in Mauritius."

This agreement also holds significant potential to attract large Foreign Direct Investment (FDI) inflows into Africa. Shahed adds, "Even if we get only trickles of the investment made by China, it will be a game changer. The frameworks are set with the AfCFTA, the FTA with China, and relevant Investment Promotion and Protection Agreements with African economies."

Challenges lying ahead

At the same time, challenges remain in the way of Mauritius taking its rightful place as the de-facto financial hub for Africa in relation to Chinese trade and investment, with Shahed underlining the need for a clear strategy that enhances the business proposition for both investors and investees in Africa.

For her part, the HSBC CEO notes that the key challenge for Mauritius is to remain relevant and competitive as a reputable regional financial hub for global clients. In particular, she emphasises that Mauritius must aim to implement and adhere to all the recommendations required for the country to be removed from the Financial Action Task Force's list of jurisdictions under increased monitoring and EU's list of high-risk third countries as soon as practically possible. She also points to challenges for exporters, noting that China is a very large and competitive market, and Mauritian exporters should really understand their unique selling points and have a clear go-to-market strategy that can be visible in the Chinese digital ecosystems.

"Separately, Mauritius should look to move up the value chain from a financial products and services offering and be truly client led. Large established financial hubs like Hong Kong and Singapore offer a variety of tailored solutions to meet their clients' needs. This would put Mauritius on par regarding offerings, yet we can compete on cost of doing business, which is lower here compared to other sites," emphasises Bonnie.

Deepening ties with the growth engine of the world

Ultimately, Bonnie harks back to the importance of the FTA as a vehicle to deepen Africa's economic ties with China as the growth engine of the world. "In Mauritius, we are working with government entities like the Economic Development Board (EDB) to raise the visibility of the economy as an investment grade financial hub for our Chinese clients. For our local clients, we continue to assist them in exporting their products to the Chinese market," she explains.

She concludes on the note that, for Mauritius to seize the opportunity with both hands, agility is paramount, for which the island economy must digitise at pace, and leverage the current and future technologies that support businesses to tap into its financial sector without having to fly down to its shores.

Qu Hongbin, Chief China Economist and Co-Head of Asia Economics at HSBC

Bonnie Qiu, Chief Executive Officer, HSBC Mauritius

Shahed Hoolash, Managing Director of Vistra (Mauritius) Limited

CECPA to set Mauritius at the heart of the India-Africa growth story

Alain Law Min, CEO, Mauritius Commercial Bank (MCB)

Fazeel Soyfoo, Partner, Andersen

At a time when economies across the world are grappling with the pandemic and its aftermath, the Comprehensive Economic Cooperation and Partnership Agreement (CECPA) between India and Mauritius may well prove to be an economic reset on local shores.

The agreement, which came into effect on 1st April 2021, has been the subject of detailed discussion between both countries since 2004 and is expected to serve as a much-needed reprieve by giving the economy a shot in the arm with a boost in local exports to India and vice versa.

A trade and investment launch pad for Africa

Described as a "Free Trade Pact", CECPA has several objectives such as boosting, enhancing and liberalising trade in goods and services while improving efficiency and competitiveness spanning across several economic sectors, including services.

With the pact being signed during the visit of the Indian External Affairs Minister Dr. Subrahmanyam Jaishankar to Mauritius earlier this year, he described it as, "the first such agreement with an African country coming to offer a timely boost for the revival of our post-COVID economies while enabling Indian investors to use Mauritius as a launchpad for business expansion into continental Africa to emerge as a 'hub of Africa'."

Many experts have hailed the agreement as coming at the right time to enable the jurisdiction to leverage services and attract investment as talks about the Mauritius-Africa-Asia corridor seem to be finally taking shape. The stage is set for Mauritius to offer multiple potential benefits by posing not just as an investment hub for the region but also offering substance as part of efforts to both reinvent itself as an International Financial Centre and attract value-added investment beyond traditional modes or structures.

Alain Law Min, CEO, Mauritius Commercial Bank (MCB), says: "The agreement can be termed as a welcome development and comes at an opportune time when Mauritius is striving to reengineer itself into offering more substance as an IFC while positioning itself as a regional investment hub. I see CECPA as playing an important part in helping the jurisdiction fulfill its highest aspirations as a regional platform of excellence for trade and investment foraying into the Asia-Africa corridor."

In this context, the MCB CEO emphasises that, apart from the CECPA, a slew of agreements such as the AfCFTA and the FTA with China have also been signed, which, coupled with Mauritius' access to significant regional blocs such as the SADC, COMESA and IOC, will accelerate the jurisdiction's aspiration in emerging as a reference regional platform for trade and investment spanning across the Asia-Africa corridor.

Here, Alain believes that the CECPA can pave the way for the jurisdiction to lead from the front by positioning Mauritius as a keystone for attracting, managing, structuring and channelling trade and investment flows into Africa.

"The agreement will help offer a conductive, efficient, and secure operating set-up to foreign entities, thus leveraging the country's intrinsic strengths pertaining to business climate, investment-grade status and compliance with global norms and standards, coupled with its robust institutional and governance framework, connectivity, infrastructure, and bilingual workforce," he elaborates, adding that trade in goods would also be buoyed with the jurisdiction granting preference to selling more than 600 products in India such as textiles, special sugars, alcoholic beverages, tropical fruits, tuna and medical devices, among others.

Meanwhile, Fazeel Soyfoo , Partner, Andersen, says: "There are endless possibilities for Mauritius arising out of CECPA, both in terms of promoting bilateral trade and enhancing our position as the leading investment hub and IFC for Africa. The onus falls on us for ensuring that the right ecosystem is in place to translate this possibility into a concrete reality."

Broadly defined financial services and digital transformation

Financial services remain an important aspect of the agreement with Mauritius notably securing access to 11 broad services from India – which crucially cover professional and financial services in their scope – and vice versa.

Fazeel Soyfoo explains: "The CECPA ensures that local financial service players can operate directly in India and vice versa with 'Financial Services' being very broadly defined, including banking, insurance and insurance-related services."

The agreement offers significant potential for businesses, as Fazeel explains, "Given the size of the Indian market, it is a huge opportunity for service providers in Mauritius. From an Indian outbound perspective, it offers a gateway of opportunities for Indian businesses not restricted to Mauritius but leveraging the platform beyond to make a presence through African investment." The agreement, he adds, will act as a catalyst for Indian businesses to set up operations in Mauritius with a view to availing of the multiple benefits offered by AfCFTA.

For his part, Alain stresses the agreement's potential to step up digital transformation, noting that the idea is to attract expertise through provisions enshrined in the agreement on the 'movement of natural persons' which, in turn, will help to facilitate the transfer of skills in the services sector, particularly financial services.

Building back better

As the immediate after effects of COVID-19 begin to subside, CECPA appears to offer a window to propel much-needed economic growth spanning across a number of key sectors, including financial services.

"The CECPA offers huge potential to boost exports of goods and services as Mauritius strives to build back its economy in a better way against the aftermath of the pandemic. Most significantly, the agreement represents an enormous opportunity for Mauritius to accelerate the adoption of technology and pace of digitisation by leveraging on Indian expertise," concludes the MCB Group CEO.

MAHESH DOORGAKANT
CHAIRPERSON OF MAURITIUS FINANCE

"We need to stay at the forefront of international standards"

The Chairperson of Mauritius Finance, Mahesh Doorgakant, shares his views on the future of the financial sector on the island and how Mauritius Finance has an integral role to play in supporting innovation, promotion and training to propel the jurisdiction to even greater heights

Over the last two decades, Mauritius has been extremely successful in achieving rapid growth and substantial diversification of its economy, establishing a relatively large and well-developed domestic financial system, and a vibrant global business and professional services sector. Today, the country is continuing to develop its role as an innovative and dynamic investment hub. It is also connecting the world through the decisive role of its strong and diversified financial sector.

In this context, Mauritius Finance has been created as a new platform to regroup all the operators of the Mauritius financial services sector, to act as a single voice for the sector moving forward. Born from the merger of Global Finance Mauritius (GFM) and the Association of Trust and Management Companies (ATMC), the new entity was officially launched on 10 February 2021.

We speak to the Chairman of Mauritius Finance, Mahesh Doorgakant, to understand his perspective on the outlook for the financial services sector and how Mauritius Finance can contribute to its development and growth.

How would you describe the development of the Mauritius International Financial Centre (IFC) to date? What more can Mauritius do to strengthen its offer in terms of value-added services and a diversified product offering to showcase globally?

Mauritius has been one of the 'newer' IFCs which has really taken prominence in the past 20 years. It started up on the simple premise of being an open economy with the clichés which need to be repeated: an ideal time zone, political and social stability, modern legislation and a network of treaties and investment promotion agreements. Above all, Mauritius has a world class level of human resource. As opposed to other IFCs which rely on a high level of expatriates, Mauritius has relied on its own people to a very large extent.

As Mauritius has grown, so has the local expertise. The input of the expatriates who have come to the island has been invaluable and has helped us grow our capacity to service more complex financial products. While, initially, our expertise was more on the corporate service and simple banking side, we now have resources to service more advanced financial products ranging from fund administration, wealth management, custodian, foundations, and REITs to mention just a few. We need to continue extending our range of products and service offers.

We have now reached the point where we will need to have a more open policy about bringing in the foreign talent to supplement and hone the expertise of our local talents.

What has been the impact of the global economic crisis, triggered by the pandemic, on the Mauritian market? How has the industry been adapting to new ways of working?

The sector has in fact reacted very well and adapted to the situation created by the pandemic. At all levels, from operation to regulatory and support, the sector has learned to operate within the 'new normal'. Many operators have successfully moved into the work from home mode while maintaining the high standards of service level. We have to say that Mauritius has been most agile at getting this done. The use of technology has also been enhanced and this will be very positive once we move past the pandemic phase.

> Mauritius has a world class level of human resource

With its strategic position, Mauritius is seen as connecting the world. How can the financial services sector in Mauritius leverage upon the new agreements on CECPA, AfCFTA and the China-Mauritius FTA?

The new agreements will undoubtedly reinforce the position of Mauritius by creating a conducive platform for exchange between Africa, India and China. The sophistication of our financial sector; characterised by the absence of exchange controls, a wide range of corporate structures, a solid technological set up and advanced banking products; puts us in a position whereby those wishing to avail of the agreements already have the relevant tools available in country.

To what extent should the financial sector in Mauritius embrace innovation and FinTech as part of its diversified offer? Are there other new areas which we should be exploring?

FinTech, digitalisation or anything which is to do with innovation is capital in our development. It goes without saying that we have to fully embrace that area if we are to stay at the forefront of global trends. Banking is one of the key areas where this is more visible to all and where everyone already uses FinTech to a certain extent and where we see the continuous improvement and upgrades. However, what we don't see as part of the equation is how this links into the systems of operators and vice versa as well as to a lot of other applications already in place. Without a doubt, this is on the agenda of each and everyone.

How can Mauritius reinforce its role as an investment hub, to attract more DFIs and international players to Mauritius?

First and foremost, it is about adherence to international standards and best practice. While Mauritius has always strived to be at the forefront, we have unfortunately been identified by the FATF to be a Jurisdiction under Increased Monitoring. All public and private stakeholders of the financial services sector are working relentlessly to get out of

the list, and we are confident that this will happen soon. Once past that, we need to continue working hard to ensure that we stay at the forefront of international standards and best practice. DFIs and international players perform a lot of checks and scrutiny before they use a country. Mauritius is approved and will stay as such as long as we maintain and enhance our standards.

What is the main focus of Mauritius Finance in bringing together local and international players in the financial services landscape?

The two associations have been very active in helping the sector and although they had different priorities at various stages, in the past few years, their objectives have started aligning. As such, it made sense to come together to combine our strengths. We have also continued efforts in working and collaborating with the authorities for the benefit of our members and the economy of Mauritius as a whole. Going forward, we willl also be focusing on two aspects – training and PR. Training is very important in the financial sector and the requirements of the global business sector tend to be a bit more bespoke. Mauritius Finance will ensure that the focus is clearly laid on our sector's specific needs. On the PR side, we want to be more proactive in our communication to promote the jurisdiction. We often see unwarranted and unfounded articles in various media platforms which we need to rebut. But we also want to be forward thinking about all that; that will be the target of a strong PR plan.

What are the main challenges facing the Mauritius International Financial Centre and how can Mauritius Finance, as a single voice, help to overcome these?

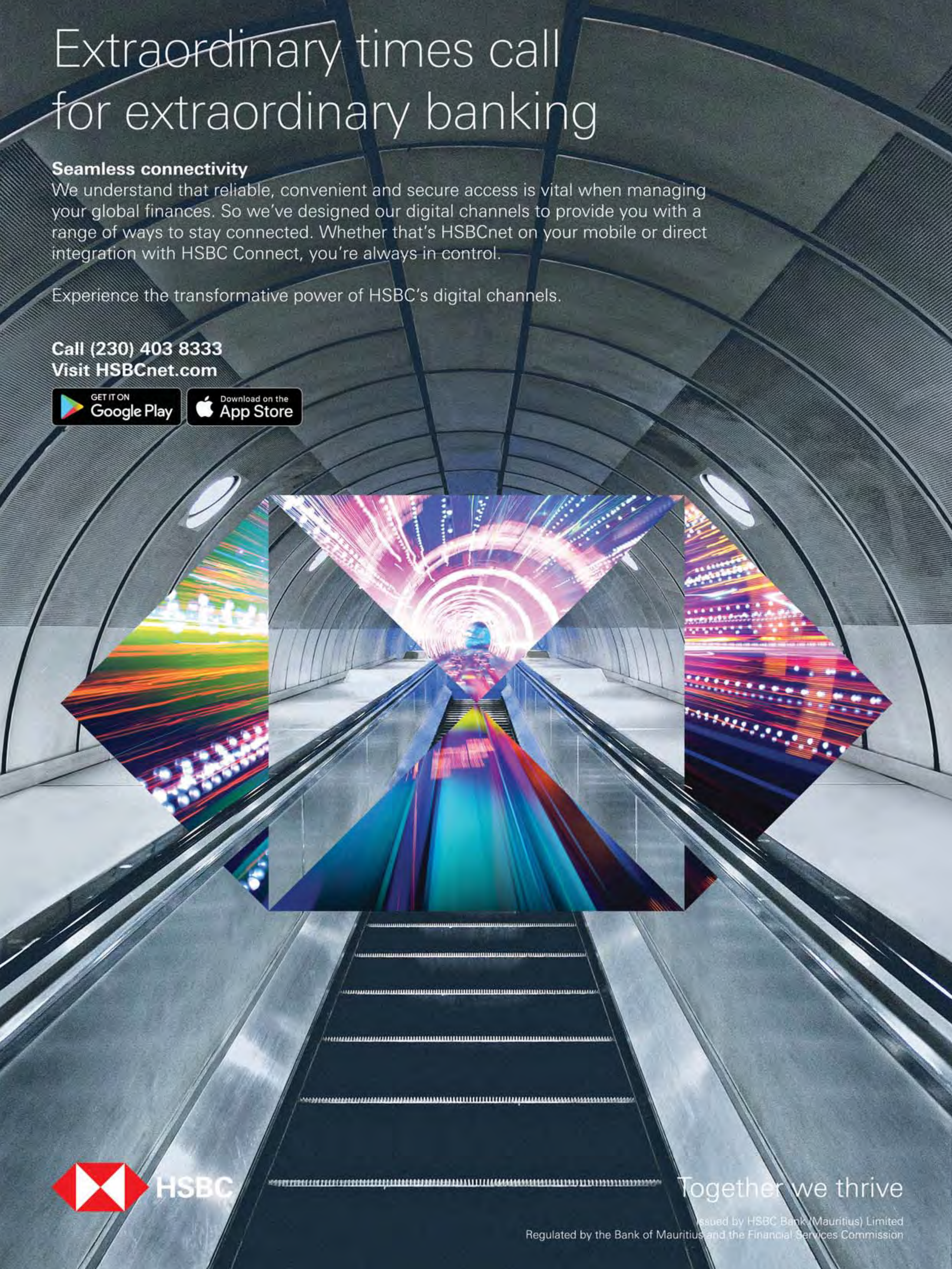
Human resource is one of the key factors that has helped our success. However, it is a limited resource and we need to ensure that we continuously train our people. With our training programme, we are confident in our capacity to contribute to that objective. At the same time, we are working with government to devise a strategy that will help us expand our expatriate population to bring in the right level of talent.

> FinTech, digitalisation or anything which is to do with innovation is capital in our development

We also have competitors who are coming up – such as Kigali Financial Centre and GIFT City. Again, we continuously work with the authorities to keep on reinventing our offering, our products and our skillset to stay ahead of the curve.

How do you see the outlook for the Mauritius IFC and for Mauritius Finance?

We feel that the Mauritius IFC needs to go on a strong marketing and promotion campaign once we are out of the FATF list – even before. We need to remind everyone of how we are a world class financial centre and how we have kept on progressing to get to the levels we are at now. We also need to showcase how we are at the forefront of adopting international standards, best practice and the latest technological developments among other things. Investors and international players realise this, but we need to be constantly reminding people of our efforts and best practice. With all this, the way ahead for the Mauritius IFC will be bright, and Mauritius Finance will decisively contribute to its success.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HON. MINISTER MAHEN KUMAR SEERUTTUN

MINISTER OF FINANCIAL SERVICES AND GOOD GOVERNANCE

At the beginning of this year, we have witnessed the fusion of the Association of Trust and Management Companies and Global Finance Mauritius to give rise to Mauritius Finance. Today, as a team we are working together with all stakeholders, both private and public sector, to bring Mauritius to new heights. It is important to underscore that the financial services sector has managed to remain the most resilient during this pandemic. And this is the reason for which at the level of my Ministry we are doubling our efforts to make sure that we leverage on this sector to give the necessary impetus to our economy.

This year we have rolled out an action plan for the implementation of the Blueprint recommendations with the assistance of the Financial Services Consultative Council. A dedicated team has been set up at the level of my Ministry for close monitoring. A series of actions have already been initiated which include the setting up of a Financial Services Law Advisory Committee, the launch of the

MARDAYAH KONA YERUKUNONDU

CHAIRMAN OF THE FINANCIAL SERVICES COMMISSION (FSC) AND FIRST DEPUTY GOVERNOR OF THE BANK OF MAURITIUS

Mauritius has continuously been consolidating its position as an International Financial Centre (IFC) since its inception. The financial services industry in Mauritius is regulated by a robust and elaborate regulatory framework with the Financial Services Commission (FSC) regulating the non-banking financial services and the global business sector and the Bank of Mauritius (BOM) regulating the banking sector. Mauritius has been the first African country to become FATCA-compliant. In 2014, Mauritius was one of the 51 jurisdictions to sign the multilateral Competent Authority Agreement for the automatic exchange of information (CAA), under the OECD, and we have since adhered to the Common Reporting Standard (CRS).

Mauritius has consistently been implementing reforms to enhance its legal and regulatory framework and to uphold its reputation as an IFC. Responding effectively to international requirements in the areas of anti-money laundering and the combatting of financing of terrorism (AML/CFT), is an essential part of strengthening the resilience of the Mauritius IFC and ensuring that Mauritius remains a viable investment and business destination. Equally important are the reforms brought in to ensure compliance with OECD requirements on tax matters as well as remaining compliant with the European Union Tax Governance Good Principles.

The need to underline the position of Mauritius as a centre for innovation is a topic which is coming up frequently of late and the vision for

DHANESSWURNATH THAKOOR

CHIEF EXECUTIVE OF THE FINANCIAL SERVICES COMMISSION (FSC)

The financial services industry is today undergoing rapid and far-reaching transformation, underpinned by new and emerging technologies, and whereby regulators are globally called upon to implement new regulatory responses and approaches. The Financial Services Commission, Mauritius (FSC) has been a pioneer amongst its peers in the African region and has spearheaded a comprehensive regulation innovation agenda since 2018, following the establishment and recommendations of a high-level FinTech and Innovation-Driven Financial Services Regulatory Committee. The FSC has implemented new and effective regulatory frameworks for a range of innovative financial products/services such as peer-to-peer lending, custody of digital assets, securities token offerings, and investments into digital assets by expert, professional, specialised funds or investors respectively.

The regulatory frameworks for robotic and

“The financial services sector has managed to remain the most resilient during this pandemic”

Mauritius IFC website, compliance with FATF standards, compliance with OECD standards, the launch of new financial services products such as the Special Purpose Fund, Variable Capital Company and Insurance Wrapper. We are continuously working in close collaboration with the members of the private sector to keep in touch with the requirements of the clients so that we can take the right step at policy level.

In the same wave, this year, we are reviewing the provisions of the existing Securities Act to make it more attractive to international players, and we will also be issuing our sustainable financing framework which makes Mauritius a preferred platform for the issue of green, blue or sustainable bonds.

As announced in last year’s Budget, FinTech is high on our agenda. It has become even more relevant in such a period where we need to reduce physical interaction. My Ministry is focused on developing a national strategy for FinTech and to foster the right ecosystem to position Mauritius as a FinTech hub for the region. You will observe that a Call for Views was launched in March 2021 during lockdown and we have received valuable inputs and recommendations from the public. We will soon be coming up with a Report to announce the way forward.

“Mauritius has continuously been consolidating its position as an IFC”

the digital transformation of our financial services sector is being discussed among stakeholders to ensure continuity going forward. More importantly, however, is the modernisation of our regime to align it with the latest international best practices while remaining competitive and ensuring the continued success of the Mauritius IFC. In this regard, we are currently considering an overhaul of the current regimes in place into a more modern and attractive platform for business, across the different sectors of financial services.

For its part, Government has given a high-level political commitment to adhere to international best practices to combat money laundering and the financing of terrorism and proliferation, as well as adhering to all norms on international tax matters. Government, together with all relevant stakeholders and the Industry, are doing their utmost to exit both the FATF and EU lists at the earliest.

“The FSC will intensify its collaboration with stakeholders of the FinTech industry”

artificial intelligence-enabled advisory services, FinTech service providers (including Regtech entities) and investment-based crowdfunding services will, in addition, be released shortly. Digital technologies will continue to create new opportunities for both start-ups and licensed entities to offer a more diversified range of financial products and services, thereby leveraging the competitive advantage of the Mauritius jurisdiction in the region.

The FSC, as a key enabler, will continue to establish the appropriate regulatory ecosystem for these entities to expand their business opportunities to support the potential benefits of technological developments to fruition, whilst fundamentally focusing its policy actions to minimise the scope for regulatory arbitrage. The FSC will intensify its collaboration with stakeholders of the FinTech industry in Mauritius to position the jurisdiction as an attractive regional FinTech Hub in line with Government’s vision.

Furthermore, the FSC, through its membership to the Global Financial Innovation Network, will contribute, at international level, in the promotion of joint policy work and the sharing of expertise on emerging technologies and business models with its fellow regulatory counterparts.

Work from home' or 'work from anywhere'- the new normal?

With COVID-19 precipitating an unprecedented global surge in working from home, Priscilla Balgobin-Bhoyrul, Senior Partner at Dentons, explains how Mauritius is leading the way with a tailor-made regulation while elaborating the risks and opportunities associated with this rising phenomenon that promises to change the world of work forever

By Priscilla Balgobin-Bhoyrul, Senior Partner, Dentons Mauritius

On the 16th of May 2020, Mauritius enacted the COVID-19 (Miscellaneous Provisions) Act 2020 which introduced section 17A to the Workers' Rights Act 2019. Section 17A provides that an employer may require any employee to work from home by giving him a notice of forty-eight hours. Consequently, a work from home agreement would need to be formalised between the worker and the employer in accordance with the Workers' Rights (Working from Home) Regulations 2020.

Under these new regulations, the possibility of working on flexitime, which was previously only exercisable by workers having to care for a child below four years old or for a child suffering from an impairment, has been extended to any worker earning not more than Rs 600,000 in a year. The legislation even provides for the employee to be reimbursed for any work-related expenses incurred such as the use of electricity, internet or any other facility in connection with work performed at home.

In so doing, Mauritius has paved the way for remote working in the new normal. Even in some European countries, where working from home was already part of the work culture in the pre-COVID-19 era, there is currently no specific regulation in relation to remote working. This would, in turn, mean that an employer does not have to agree to an employee's request to work from home unless it is provided for in the employment agreement.

The risks and consequences of working from home

At the same time, the rapid transition to working from home has precipitated a wealth of security challenges which companies are trying to overcome. Indeed, in the wake of remote working, companies face increased cyber security risks with remote employees being the weakest link.

As working from home becomes a gateway to new forms of data theft, Darktrace, a leading AI security company, revealed that more than 60% of phishing emails that it detected were related to remote employees who were convinced that emails that were sent by hackers posing as their CEOs, senior staff or even their corporate IT team were genuine[1]. It is thus important for employees to be adequately trained and to be able to manage sensitive data.

Such a drastic shift in work habits can impact a company's insurance and risk liability coverage as well. Any company considering, permitting or requiring employees to work remotely as a long-term strategy should have its policies reviewed to identify gaps that were not initially envisioned in conventional insurance policies. They would certainly need to consider the impact of long-term remote working on their respective cyber-policies.

Companies with remote employees face increased cyber security risks

Furthermore, having a remote workforce will change the risk companies now face for worker injury claims. Nonetheless, employers should be minded that any work-related injury sustained by a remote worker out of and in the course of his employment shall be deemed to be injury at work. Insurance policies should thus be re-evaluated in light of remote working to ensure that the scope of covered workers

1. Darktrace, '400% increase in demand for AI email security, as Cyber threats escalates' (30th April 2020) <https://www.darktrace.com/en/press/2020/323/> accessed 16 April 2021

and territories are updated accordingly.

International remote workers and digital nomads

As remote working becomes more popular, requests to become an 'international remote worker' or a 'digital nomad' will increase. Whilst an international remote worker lives in one country but works in another, a digital remote worker generally seeks to fund his travel by working remotely or by working on a specific visa.

Mauritius has recently introduced such a visa. Coined as the Premium Visa, it enables a foreign national and his family to live and remotely work in Mauritius for a period of one year. In order to qualify for a Premium Visa, the foreign national needs to produce documentary evidence of his long stay plans, his travel and health insurance for the initial period of stay, and confirmation that his principal place of business and source of income is located outside of Mauritius.

Making it work for employers and employees

There is no doubt that having a 'work from anywhere' policy could help in staff retention and lower the cost for the organisation. It nonetheless remains essential to have clear internal policies and to understand the legal implications of remote working. Indeed, issues relating to employment law, immigration, tax, social security and regulatory compliance are bound to crop up. Data protection laws and GDPR, if applicable, are crucial factors that should be taken into account, especially when it comes to the transfer of data from Mauritius to other jurisdictions.

Nevertheless, as we gradually embark on what we all hope is a post pandemic era, every employer should be asking itself these burning questions: Will the company encourage its employees to work from home and if so, fully or partly? Will the company adopt a company-wide 'work from anywhere' policy? If so, what categories of employees will benefit from this option? How far will the company go to assist the employees in their tax and visa applications? Are its core business support professionals equipped to deal with employees working remotely?

It would indeed be a serious missed opportunity for employers not to ponder over these very timely questions.

Photo by Sergey Zhesterev on Unsplash

The Mauritius Premium Visa: A window for non-citizens to work globally from Mauritius

Faraz Rojid, Head of Financial Services at the Economic Development Board (EDB) of Mauritius, explains the lifestyle and taxation implications of this appealing long-stay visa which allows eligible non-citizens to reside in Mauritius for a year while enjoying the exceptional quality of life that the island has to offer

Introduction

On the 23rd of October 2020, the Government of Mauritius announced the introduction of a new Visa Scheme for eligible non-citizens to come for long stays in Mauritius.

The Premium Visa, as it is called, is valid for a period of one year, is renewable, and has been launched in response to internal demands due to the current pandemic. Indeed, the COVID-19 crisis has brought the world at the cusp of the next wave of digital revolution, where professionals, entrepreneurs and investors are working and conducting the affairs of their businesses remotely.

The Premium Visa, as such, provides a window to non-citizens to experience the exotic luxury lifestyle of Mauritius for long-term holidays or for working from home, with an exceptional quality of life and standard of living.

The Mauritius Advantage

Mauritius is a vibrant tropical island nestled in the Indian Ocean, with sunshine all year round, sandy beaches, warm crystalline waters, picturesque mountain scenery, and over three-hundred unspoiled endemic flora.

It is a melting pot of cultures, where ethnic diversity and peaceful living blend harmoniously with a wide variety of cuisine, all of which will leave the wanderlust mind of the hodophile spellbound and satiate his taste buds.

- A Safe and Sound Abode

The success of Mauritius in fighting the first COVID-19 wave bears testimony to the commitment of the Government and the people of Mauritius in making Mauritius a COVID-safe island.

To recall, Mauritius registered its first COVID-19 case on the 18th of March 2020 and, through bold sanitary and health precautions, by the 27th of April, there were no more local infections. On the 13th of May, the Government announced a new phase of opening as there were zero active cases.

A second wave hit Mauritius in March 2021, and the authorities have imposed a temporary lockdown with a phased opening. Since the 26th of January 2021, a mass vaccination campaign has been rolled out, wherein a threshold of 700,000 persons to be vaccinated has been set for the country to achieve herd immunity; with the vaccination being free of charge for all Mauritians and visitors who are holders of the Premium Visa.

- An Exquisite Unencumbered Lifestyle

Mauritius boasts an expat-friendly property market, and non-citizens are able to acquire luxury residential properties, including villas and condominiums, senior living residences, and exclusive hotel units through dedicated schemes managed by the Economic Development Board.

Non-citizens can also experience long stays in the fine and exquisitely-furnished luxury hotels all around Mauritius, and leverage on the attributes of the Mauritius International Financial Centre.

- An Investor's Hive

With more than three decades' track record in cross border investment and finance, the Mauritius IFC today offers a panoply of financial products and services to the international community of investors, including private wealth management, family offices, investment structuring, fund management and corporate services, amongst others.

Mauritius has over the years consolidated its leadership position in Sub Saharan Africa as the Business and Financial Hub of Choice.

Coupled with political, social and economic stability, Mauritius is also ranked, by the World Bank, as the top 13th country globally for its ease of doing business, and first in Africa. It is also ranked first in Africa in the Global Competitiveness Index by the World Economic Forum, in the International Property Rights Index, in the Index of Economic Freedom (Heritage Foundation) and in the Economic Freedom of the World (Fraser Institute). It is also ranked first by the Mo Ibrahim Foundation on its Index of African Governance.

The Scheme

The Premium Visa is open to citizens from over 110 countries wishing to come to Mauritius as tourists, digital nomads, retirees, investors, business professionals, or parents of children studying in Mauritius for a period of one year, renewable.

By Faraz Rojid, Head of Financial Services, Economic Development Board of Mauritius

> Mauritius has an expat-friendly property market where non-citizens can buy luxury residences

The applicants to the Premium Visa must show proof of sufficient funds, stay plans and travel and health insurance for first year of stay in order to qualify for the Visa. The applicant will have to conduct business and derive funds from outside of Mauritius, and will not be able to enter the Mauritian labour market.

As a general governmental policy, non-citizens will also be asked, like returning Mauritians, diaspora, and short-term visitors, to undergo a 14-day quarantine period together with a pre-departure PCR test, arrival PCR test and follow up PCR tests on the 7th and 14th quarantine days, respectively.

Tax Treatment[1]

The Premium Visa is premised on the fact that the non-citizen would come to Mauritius to work, and would work from Mauritius, for either his existing employer or himself, for a period amounting to around 12 months.

Section 74 subsection 1 of the Mauritius Income Tax Act 1995 reads as follows: "emoluments derived from any office or employment, the duties of which are performed wholly or mainly in Mauritius, whether such emoluments are received in Mauritius or not" qualifies as income derived from Mauritius.

Therefore, if a person will be working from Mauritius under the Premium Visa, that is the person is physically based in Mauritius and the duties are performed wholly and mainly from Mauritius, it will be captured under the said provision as income derived from Mauritius.

> The Premium Visa is valid for a period of one year

Accordingly, the source of his income will be deemed to be from Mauritius, whether the income is credited into a Mauritius bank account or a foreign bank account. This remittance rule is valid when an individual derives an income from outside of Mauritius by virtue of section 5 of the Income Tax Act, which stipulates:

(1) Income shall be deemed to be derived by a person where-
  (a) the income was derived from Mauritius, whether the person was resident in Mauritius or elsewhere; or
  (b) the income was derived at a time when the person was resident in Mauritius, whether the income was derived from Mauritius or elsewhere.

(2) Subject to the other provisions of this Act, income shall be deemed to be derived by a person when -
  (a) it has been earned or has accrued; or
  (b) it has been dealt with in his interest or on his behalf, whether or not it has become due or receivable.

(3) Income derived by an individual from outside Mauritius shall be deemed to be derived by the individual when-
  (a) it is received in Mauritius by him or on his behalf; or
  (b) it is dealt with in Mauritius in his interest or on his behalf.

By consequence, the person would be subject to income tax in Mauritius as soon as he starts to work from Mauritius on his Mauritian sourced income. Subject to section 73 subsection 1(a)(ii), a person becomes a tax resident in Mauritius if he stays for 183 days or more in an income year.

Once the person is considered a tax resident in Mauritius, he will be subject to tax on his worldwide income, that is income derived outside Mauritius on a remittance basis only – that is, if the funds are brought and deposited in a bank account in Mauritius.

The person will also be entitled to the income exemption threshold and other reliefs as per the Income Tax Act. Additionally, as per section 77 of the Income Tax Act, if a person's income is subject to foreign tax and a declaration is made to the effect that the required tax has been paid, the amount of foreign tax paid shall be allowed as a credit against the tax payable in Mauritius.

Lastly, if a Premium Visa holder is using his funds through foreign credit cards or debit cards, that income will not be deemed to be remitted to Mauritius and any such funds utilised through the cards will not be taxed in Mauritius.

Conclusion

Mauritius is a traveler's dream, as well as a beacon of opportunities for investors.

The openness policy for the Premium Visa reveals the forward thinking and inclusive approach adopted by the Government of Mauritius. During the announcement of the Premium Visa, the Minister of Finance, Economic Planning and Development, under the direction of the Prime Minister, enunciated that: "Mauritius is open. Visitors are welcome to our country who are looking for a long term safe and secure second home... with world-class business and leisure infrastructure to help facilitate remote working and retirement plans." [2]

As Mauritius moves towards countering the second wave of COVID-19 with the stringent sanitary and health precautions that have been put in place by the Government, the tropical island beckons to all those travelling for pleasure and remote working alike to enjoy the unparalleled quality of life that its exquisite shores have to offer.

1. This section is for information purposes only. It should not be construed as a tax or legal advice, and it is based on policy considerations at the time of print. The authoritative stance shall be the Income Tax Act 1995 at all times, as may (or may not) be amended by the forthcoming Finance (Miscellaneous Provisions) Act 2021 or equivalent legislations, following the Budget Speech 2021-2022.
2. Source: Mauritius Tourism Promotion Authority, https://www.mymauritius.travel/articles/mauritius-open-live-and-work-covid-secure-indian-ocean-paradise

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Established Rule of Law & Political Stability

1st in Africa - Democracy Index 2020 The Economist Intelligence Unit - Full Democracy

Fostering Good Governance Practices

1st in Africa - Mo Ibrahim Foundation Index of African Governance

Efficient Business Environment

1st in Africa, 13th Globally - World Bank Doing Business 2020

Economic Freedom

1st in Africa for the Index of Economic Freedom - Heritage Foundation, and **1st in Africa** in Economic Freedom of the World - Fraser Institute

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INTERVIEW: H.E. SHRIMATI NANDINI SINGLA

HIGH COMMISSIONER OF INDIA TO THE REPUBLIC OF MAURITIUS

"CECPA is a signal step forward in our excellent bilateral relations"

There are significant opportunities to tap into the full potential of the close and time-tested India-Mauritius relationship based on economic, historical and cultural ties and shared values, according to H.E. Shrimati Nandini Singla, while the early provision of COVID-19 vaccines from India to support Mauritius is a clear testament to the special relationship between the two countries

Her Excellency Shrimati Nandini Singla, High Commissioner of India to the Republic of Mauritius, took office in early January and, since then she has been at the forefront of strengthening diplomatic relations between the two countries in both the economic and health arenas.

In this interview*, the High Commissioner shares her insights on a number of topical issues, including vaccine diplomacy which has become embedded into the bilateral relations between India and Mauritius, and opportunities for economic collaboration through CECPA and the IFSC in Gujarat, with the aim of achieving a "win-win' scenario that brings mutual benefit to both countries.

India has emerged as the "Pharmacy of the World" producing 60 percent of the world's vaccines, supplying 70 percent to WHO, and exporting 150 billion doses to more than 150 countries. The first batch of 100,000 doses of COVISHIELD and later COVAXIN which reached the local shores are considered as a game-changer. As India's envoy, how do you see the vaccination drive in boosting bilateral ties with Mauritius and supporting sectors such as financial services and tourism?

India's 'Vaccine Maitri' initiative is driven by our civilisational belief in the ideal of 'Vasudhaiva Kutumbakam' that the 'world is one family'. As the

* This interview was conducted on 16 April 2021

'pharmacy of the world', our Prime Minister Shri Narendra Modi has committed to deploy India's pharmaceutical capabilities to benefit entire humanity in this hour of need. To this end, India has supplied 150 countries with critical COVID-19 medicines; 82 countries have received them free of cost. Over 64.5 million 'Made in India' COVID vaccines have been supplied so far to 84 countries, representing almost the same number of vaccines administered by India for its own people at 68 million, and still counting.

Given our especially close and unique relationship, Mauritius was one of the very first countries in the world to receive Indian medicines and vaccines. Last year, during the peak of the pandemic, India supplied Mauritius with 23 tons of essential medicines, including half a million tablets of Hydroxychloroquine (HCQ) along with a 14-member Rapid Response Medical Assistance Team under our 'Mission SAGAR' initiative. On January 22 this year, within a week of starting our own vaccination programme in India, we swiftly gifted Mauritius 100,000 doses of AstraZeneca's COVISHIELD vaccines. This was followed by a second consignment of commercial supply of 100,000 COVISHIELD vaccines in mid-February during the visit of our External Affairs Minister, Dr. Subrahmanyam Jaishankar. Less than a month later, despite a massive second wave of COVID-19 in India and the extraordinary domestic demand for vaccines, we exported 200,000 doses of the indigenously developed COVAXIN to Mauritius. This was the clearest demonstration of our special bilateral ties and the importance that India attaches to the wellbeing of Mauritians.

Although Mauritius was 'COVID safe' thanks to the commendable leadership of the Honorable Prime Minister Mr. Pravind Jugnauth, we wanted to help vaccinate the brave Mauritian frontline workers and reopen the borders to revive the economy. We are very glad that India was able to step up and assist.

What is your assessment of India as a 'silver bullet' to foster global growth and, most importantly through this 'global diplomacy strategy', playing a steering role to ensure affordability and equitability as advocated by the International Chamber of Commerce, while contributing USD 15 million as a Global Alliance for Vaccines and Immunizations (GAVI) donor? What does it mean for India and its deep partnership with Mauritius, as well as Africa?

As the 'pharmacy of the world', India has played a key role in making medicines and vaccines not only available to the whole world but also affordable in developing countries. Today, India is one of the top COVID-19 vaccine producers, having also developed its own indigenous vaccine to become the country with the third largest number of COVID-vaccinated people in the world so far (after US and China), and the second highest number of vaccinations per day (about 2.2 million), after the US.

What is noteworthy is that about 40% of the 64.5 million doses of vaccines exported by India have been supplied to Africa and roughly 28% to the WHO COVAX facility, to help countries that cannot afford them. In fact, India is one of the few countries to have supplied COVID-19 vaccines to a growing list of more than 30 African countries. It is equally telling that India has contributed USD 15 million to the GAVI Vaccine Alliance despite being eligible for GAVI's support as a developing country herself.

By supplying COVID vaccines and medication, India has helped stabilise economies, open up borders and given hope of an end to this terrible pandemic. India is also actively promoting "vaccine internationalism" to ensure equitable and affordable global access to COVID-19 vaccines. That's why, in October 2020, India along with South Africa and eight other countries tabled a proposal in the World Trade Organisation (WTO) proposing that certain Intellectual Property Rights provisions under the TRIPS Agreement be waived to enable ramping up of global production of COVID medication and vaccines. We are proud that Indian companies have been at the forefront of this fight by producing high quality, affordable medicines and vaccines to help poorer countries.

> India is one of the top COVID-19 vaccine producers

Pune-based Serum Institute of India (SII) producing COVISHIELD and Bharat Biotech International Ltd producing COVAXIN have emerged as the biggest global facility for which Mauritius has been an important recipient. How does it augur for a global economic recovery on the one hand and for the local economy on the other, which is facing a second lockdown while grappling with several challenges to achieve positive growth and generate productive capacity?

As world leaders in producing COVID-19 vaccines, Indian vaccine manufacturers are leading the global fight against COVID-19 today. For instance, the Serum Institute of India (SII) has supplied about 60 million low cost COVID vaccines to several developing countries by partnering WHO's COVAX Facility led by the GAVI Vaccine Alliance. SII is further ramping up its impressive COVISHIELD production capacity of over 70 million monthly doses. Similarly, Bharat Biotech, the largest supplier of vaccines to the Government of India, is scaling up its production of COVAXIN.

This is not surprising because even before the pandemic, the Indian pharmaceutical industry supplied 60% of the world's vaccines. For instance, SII is the world's largest vaccine manufacturer and caters to 170 countries; Bharat Biotech holds over 145 global patents and has pioneered 16 vaccines, including the world's first Typhoid conjugate vaccine. The Indian pharma industry has the highest number of USFDA approved manufacturing plants (665) outside the US as well as 42% of global Abbreviated New Drug Applications (ANDA). Over 80% of the global supply of antiretroviral drugs to combat AIDS comes from Indian firms. The best part is that these are produced at a fraction of the global cost, enabling poor people across the globe to access them.

As for the Indian economy, despite a lockdown-induced economic contraction of 8% in 2020, optimistic signs of economic recovery are already evident, for instance, in the manufacturing and construction sectors, coupled with the Goods and Services Tax (GST) collection which crossed USD 13.6 bn for the fifth month in a row in February 2021 and was 7 percent higher than last year.

Recently IMF Chief Gita Gopinath lauded India as leading from the front as part of the vaccine policy coupled with 30 different vaccine development initiatives which are ongoing, 6 vaccines at clinical trial stage, out of which three are developed indigenously. How do you see the potential of India as a global hub for manufacturing or developing the health economy, looking at media reports hinting at Johnson & Johnson plans to set up a plant in India, helping the economy to charter the path of growth?

India is indeed a significant global player today in healthcare, manufacturing, medical treatment, and R&D in pharmaceuticals. In fact, without India's unparalleled capacity to manufacture large volumes of vaccines, the world will not be able to cater to the global COVID-19 vaccine demand.

That's why at the Quad Summit held a few weeks ago, India, US, Australia and Japan decided to work together to produce 1 billion doses of COVID-19 vaccines by 2022, which includes the manufacture of Johnson & Johnson vaccines by the Indian firm

Biological E to cater to the whole of South East Asia. The Russian Sputnik V vaccine is also likely to be manufactured in India's well known Dr. Reddy Labs soon, to scale up production.

India is today also emerging as a hub of cutting-edge research and development in the field of vaccines. We have seven more COVID-19 vaccine candidates in clinical trials and around two dozen vaccines in pre-clinical trials. Given India's massive manufacturing capacity and readiness to serve all of humanity, this is not just positive news for Indians, but for the whole world.

India is expected to be one of the top three global economies in the coming years, thus playing a significant role in fostering global growth. The good news is that India's economy "is bouncing back" from the pandemic where a few days ago, the World Bank upped its projections for India's economic growth by a massive 4.7 percentage points to 10.1 percent for 2021-22, thanks to the strong rebound in private consumption and investment growth. IMF has similarly predicted a GDP growth rate of 11.5% for India this year.

As they say, 'Every crisis is an opportunity'. Even as India was grappling with the pandemic's impact last year, our Prime Minister Shri Narendra Modi launched the 'AatmaNirbhar Bharat Abhiyan' (Self- reliant India) with a stimulus package worth 15 percent of India's GDP. With India jumping 79 places in recent years in the World Bank's Ease of Doing Business - a performance record for a major economy - I believe that the Indian pharma industry is set to play an even bigger role globally.

The Indian Government recently amended the Finance Bill to ensure the provision of wholly-owned special purpose vehicle, to facilitate the smooth transfer of Mauritius-based funds investing in India to the International financial services centre (IFSC) in Gujarat through securities transfer. How does it benefit funds from Mauritius entering the Indian IFSC taking into account that there are presently some 600-800 of them in India? What are the benefits for the financial centres in both countries over the long term, coupled with the prospect of attracting more DFIs to Mauritius?

Thanks to the strong fundamentals of its economy and sustainability of its long-term economic prospects, India has been attracting large scale foreign investment. We are thankful to various financial jurisdictions, including most notably Mauritius, for having facilitated the flow of these investments into India for several decades now. Given the massive scale and scope of India's growth and development needs and ambitions for the future, it is but natural for India to have a dedicated financial services facility in India itself. The IFSC in Gujarat which seeks to become a domestic and global financial centre, is, therefore, an expected and logical progression of things in this regard.

However, the IFSC in Gujarat is still evolving while Mauritius is an established international financial centre of substance and repute. I do not contemplate competition between these two jurisdictions; rather, I see great potential for cooperation and collaboration. The spirit of our close bilateral ties has traditionally extended to mutually beneficial cooperation in the field of financial services. The IFSC in Gujarat could become a bridge that further fosters close economic ties between our countries. For instance, India could successfully leverage the comparative advantages of Mauritius, especially in terms of its long experience and lessons learnt, the high quality of its professionals, banking system and judicial framework, to the mutual benefit of both countries.

India has been the largest trading partner of Mauritius since 2007 and CECPA reaffirms the diplomatic relations, escalating them to new heights. How do you see the future of trade and diplomatic relations between India and Mauritius with approaches such as the Forward Africa policy, infrastructure projects such as Metro Express and the presence of PSUs and financial services companies on the island?

There are significant opportunities to tap into the full economic potential of the close and time-tested India-Mauritius relationship. The entry into force of the India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA) on April 1 is a signal step forward in our excellent bilateral relations and one that we hope, will contribute to the betterment of the lives of our people. The fact that this is the first such Trade Agreement signed by India with any African country attests to the importance India attaches to Mauritius.

We look forward to CECPA not only bringing the economies of India and Mauritius closer, but also paving the way for Indian businesses to use Mauritius as a hub catering to the wider African market. This presents exciting opportunities, given that global economic growth in the coming decades will clearly be centred in Africa and Asia, coupled with the Indian Ocean Region playing an increasingly important role as the connecting crossroads of the world for global trade and commerce. For India, Mauritius is an important partner in three converging foreign policy priorities – as a near neighbour of India in our 'Neighbourhood First' policy; as a significant country in our 'Africa Policy' and a key partner in our outreach to the Indian Ocean Region. Given our excellent relations, I believe that our two countries are well placed to maximise the opportunities presented by this emerging scenario.

For instance, Mauritius can be a natural partner for Indian corporates looking for opportunities in Africa. Mauritius has various core strengths that it can leverage to this end - as a globally recognised stable political and legal financial jurisdiction with taxation and investment arrangements with various African countries; as a French and English speaking country with access to Europe and USA; as a member of several trading blocs such as SADC, COMESA & AfCFTA; and as a geo-strategically located country that understands the African markets well. I believe that Mauritius is strategically poised to tap into the tremendous opportunities in an exciting future and this can be a 'win-win' scenario that brings mutual benefit to both our countries.

India has been attracting large scale foreign investment

Why Mauritius is key to unlocking Africa's blue economy for sustainable growth

With the blue economy set to be a major contributor to the continental transformation envisaged under the African Union Agenda 2063, Rajnish Aubeeluck of Standard Chartered discusses how Mauritius can regionally scale and transfer its in-depth knowledge and experience of the ocean economy to truly tap into the vast potential of this sustainable sector for Africa

Various propositions have been recommended to tap into the ocean economy for more than a decade with a view to unleash the next phase of Mauritius' economic development. Indeed, one may say that the blue economy in Mauritius is not fully utilised yet, therefore there is no reason to look for new shores.

Undoubtedly, the country should continue to tap into its blue economic resources – after all, Mauritius is truly blessed on this front with a vast ocean territory comprising an Exclusive Economic Zone of 2.3 million square kilometres and a continental shelf of 396,000 square kilometres co-managed with the Republic of Seychelles. However, it is also an opportune time for the country to consider regional scaling through transferring its knowledge and experience of the sector while leveraging on partnerships for mutually beneficial expansion programmes across Africa, thereby leading the way in weaving a strong and sustainable growth story on the back of the blue economy.

Accordingly, this article aims to focus on the blue economy by exploring how Mauritius can enhance its current value proposition across the African continent.

Why Mauritius must work with Africa to shore up the ocean economy

Ocean matters. It makes up 70% of the planet, generates half of the oxygen we breathe and absorbs 25% of the world's CO_2. As an industry, our ocean is the world's 7th largest contributor and generates at least USD 2.5 trillion with over 3 billion people relying on fish from the ocean for income or food.

> Mauritius has the potential to spearhead the ocean economy's growth in Africa

Mauritius has a strong and thriving blue economy, albeit, some sectors still need investment, execution and focus to realise their full potential. The pillars of our local blue economy are fishing and aquaculture, port infrastructure and maritime transport, shipbuilding and repairs, marine salt harvesting as well as tourism and recreation. Operators of these sectors have developed a world class offering and established efficiencies and the Government aspires to increase their contribution to GDP by deepening and diversifying the value chain in a sustainable manner.

Can this knowledge and skillset be transferred? If an operator has hit the ceiling of its business growth locally, further growth can only be achieved through expansion outside of Mauritius and a natural direction of travel is Africa. We have long aspired to be a regional player of mainland Africa and we have not been fully successful yet.

Meanwhile, the African Union Agenda 2063 describes the blue economy as a major contributor to the continental transformation and growth and Mauritius has the potential to spearhead such transformation and growth. As many as 38 out of Africa's 54 countries have borders surrounded by the ocean and the continent has a total coastline of 30,500 kms, most of which is unexploited. In the next 50 years, Africa will need to increase its food production against a backdrop of chronic water scarcity and increase in the cost of living.

Against this sobering backdrop, Africa is underutilising and arguably wasting its blue economy's potential to date. However, the situation can be rectified, and Mauritius can be a catalyst for the aspired transformation.

Challenges and opportunities in leveraging Africa's ocean economy

Mauritian players have invested in the seafood sector on the African continent in the past and have faced a number of challenges. Doing business on the African continent comes with its own set of challenges including inadequate port infrastructure, prohibitive cost of imports and exports, high cost of intra-Africa transportation, maritime insecurity and piracy, illegal, unreported and unregulated fishing and a relatively small fleet of African vessels as well as the lack of an internal framework to support investment.

One of the main assets of Africa is its youth. Africa has the largest number of young people on any continent which is currently estimated at 200 million and young people will influence the economic revival of the continent over the next 15 years. The ocean represents an abundance of business opportunities and the youth needs a set of support frameworks to tap into these opportunities. When the potential of Africa's youth and its ocean opportunities are harnessed positively, the outcome can resolve issues of unemployment and lead to creation of wealth while consolidating Africa's position in the blue industry in the long term.

Needless to say, the blue economy should be developed in a sustainable way. If the continent's current trend in the unsustainable use of marine resources is not curbed, the potential of the ocean's resources will be severely compromised. The blue economy is directly linked to the United Nation's Sustainable Development Goal 14. It can improve livelihoods and provide employment, enhance sustainable food production, increase water quality and improve funding of health services, amongst others. It also has the potential to enhance knowledge infrastructure and channel funds to improve education levels, increase equal rights to economic

By Rajnish Aubeeluck, Head of Client Coverage, Commercial, Corporate and Institutional Banking (CCIB), Standard Chartered Bank Mauritius

resources, improve access to clean water and sanitation, and enhance access to renewable energies.

In the longer term, the development of a blue economy can provide for economic diversification, improve local infrastructure, promote equitable trade of goods and services, and create resilience to an uncertain climate future. On a larger scale, these benefits can result in promoting continental peace and security, improving partnerships between public, private and civil society actors, as well as strengthening continental cooperation. The benefits are non-exhaustive and they emphasise the potential of creating a virtuous circle through the development of a sustainable blue economy.

Tapping into key enablers for the ocean economy

Undoubtedly, the time to act is now, and two enablers are fundamental – policy changes and capital.

The governance structure needs to be enhanced to include a blue economy regional framework. Mauritius needs to look beyond its territorial waters and leverage on its membership in the two regional communities and its strong diplomatic ties with African countries to influence policy change and advocate for a strong governance framework towards the sustainable development of the blue economy.

In terms of capital, sustainable finance can help turn the tide. The issuance of blue bonds is fairly new, but it is a valuable instrument for raising capital from investors to finance marine and ocean-based projects that have positive environmental, economic and climate benefits. Indeed, blue bonds have the potential to be as impactful as green bonds, of which USD 1tn have been issued since the first issuance in 2007.

Incidentally, the first sovereign blue bond in the world was issued by the Republic of Seychelles in October 2018. The proceeds were used to finance ocean-based projects and enhance the protection of marine resources, while further developing the Seychelles' blue economy as it transitioned to a more sustainable fisheries industry.

Establishing a robust sustainable finance proposition

Global trends show that investors have the appetite to invest in sustainable projects and the blue economy will invariably attract a fair share of this capital considering the benefits of investing in blue economies and compliance with the 17 SDGs of the United Nations. While capital markets have been active in supporting sustainable finance, banks have also rolled out sustainable finance products to support client debt requirements. Market players continue to demonstrate an understanding of the need to move to sustainable financing.

In Mauritius, there is a need for the establishment of a framework by regulators to incentivise sustainable financing, both for the provider of sustainable financing and the recipient. For example, a reduction in the regulatory cost of sustainable banking products has a direct impact on the pricing benefit for a sustainable finance product which is a win-win for both the provider and the recipient of this type of financing.

> The governance structure must be enhanced to include a blue economy regional framework

With the economic contraction globally, banks must remain competitive and support their clients in weathering this crisis by focusing on long term sustainable solutions. If Mauritius establishes a robust sustainable finance proposition, banks will be able to expand their horizon and support Africa's sustainable finance needs.

Mauritius at the heart of unlocking the African ocean economy's potential

Ultimately, Mauritius has the ambition to become for mainland Africa what Singapore is to South East Asia. And, to help the economy realise its potential as a gateway to Africa, Mauritian corporates have been early movers in supporting Africa in the agricultural and financial services sector.

However, the fact remains that Mauritius can do much more to support the economic growth of Africa - transfer more knowledge and skills to Africa, influence policy changes and leverage its financial services industry to fund projects as well as support capital flows to develop a thriving blue economy. This is our chance to lead the way in a sustainable manner, and we must rise to the occasion with all the resources at our command.


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Mauritius: the preferred jurisdiction to channel investment into South Africa following exchange control relaxation

A greater number of South African investors is expected to take advantage of the Mauritius hub to channel their investment into South Africa in the light of the relaxation of loop structures announced by the South African Government earlier this year, boosting investment opportunities between the two countries

The position of Mauritius as an International Finance Centre is becoming increasingly vital for investors looking to invest around the world. Over the past few decades, Mauritius has become a sought-after destination for commerce and trade and recognised as a gateway for structuring investments.

Mauritius has effectively transformed into a financial services, tourism, export-oriented manufacturing, property development and real estate, agribusiness, ICT-BPO and Freeport and logistics economy. Having set up a harmonised fiscal regime for domestic and international businesses, the country complies with all international taxation standards. To preserve the tax system's integrity, it has signed up to the Common Reporting Standards for automatic exchange of financial and tax information and the Foreign Accounts Tax Compliance Act (FATCA) with the United States. The Star and Key of the Indian Ocean represents an exemplary development model as it ranks high on various global development indicators and standards. The World Bank has rated the country 13th out of 190 countries for ease of doing business, while according to the 2021 Index of Economic Freedom by The Heritage Foundation it is ranked 13th out of 178 countries globally.

Opportunities for increasing investment flows between Mauritius and South Africa

With its robust financial services centre, Mauritius is regarded as one of the leading international financial centres by the African business community, and the country is today acclaimed as the preferred business investment and trading hub for Africa, including South Africa. The government provides savvy investors and business executives with a compliant and reliable platform coupled with:

- an attractive tax system
- a modern and innovative legal framework
- a diversified economy
- a stable political and social environment
- a bilingual workforce with a high level of expertise, and
- a reliable banking and telecommunications system facilitated by the absence of exchange controls and unrestricted movement of capital, amongst other benefits, to direct their investment into South Africa.

In line with the Africa Strategy of the Economic Development Board, the apex and multi-sectoral investment and trade promotion and development organisation of Mauritius, South Africa has been identified as one of the top destinations for doing business in Africa and a priority market for Mauritian operators and professional service providers. Sustainability as a business destination for South Africa is further bolstered, with Mauritius and South Africa being members of all major African regional organisations, including the Commonwealth and African Union. Furthermore, the two countries are signatories to the Southern African Development Community (SADC) and the African Continental Free Trade Area (AfCFTA) and play active roles in fostering diplomatic and economic cooperation and boosting trade and investment.

Relaxation of South African rules on loop structures to boost future prospects

In January 2021, the South African government took a bold step to support South Africa's growth as an investment and financial hub for Africa by lifting the prohibition on loop structures.

Individuals, companies and private equity funds that are South African tax residents are permitted to invest in an offshore structure that would invest back into South Africa, on the condition that such transactions are reported to the Financial Surveillance Department through an Authorised Dealer.

Previously, the South African government barred loop structures as they believed it facilitated the country's direct or indirect export of capital. Lately, resident individuals and companies were allowed to acquire up to a 40% direct or indirect interest in an offshore vehicle that held South African assets until the new provisions came into effect.

Following the newly introduced complete relaxation of the loop structure prohibition, South African residents can exploit the competitive, efficient, and well-regulated financial centre of Mauritius by moving the shareholding of their South African business into offshore vehicles in Mauritius. This will allow them to move profits from their South African company through dividends to their offshore vehicle, thereby exporting capital and keeping profits in hard currency.

By Pravesh Heeroo, Business Development Executive for BTG Trust and Corporate Services (Mauritius)

> Mauritius has become a sought-after destination for commerce and trade

The double taxation agreement between Mauritius and South Africa allows investors to optimise their tax and take advantage of reduced dividend withholding taxes.

The relaxation of the rules on loop structures furthermore allows South African individuals or entities to dispose of their intellectual property, developed in South Africa, as consideration for shares to be issued in a Mauritian Intellectual Property holding entity; thus expanding the global reach of their products through licensing.

With the extensive benefits that Mauritius offers and the reforms to South Africa’s exchange control system, a greater number of South African investors is expected to take advantage of the Mauritius hub to channel their investment into South Africa.

Spinning the wheel of life: Governance, sustainability and family in African wealth planning

Gordon Stuart, Managing Director of Accuro Mauritius, and Mustafa Hussain, Private Office Legal Counsel of Accuro London, combine their insights from two leading wealth management hubs to explain how to best approach the wealth planning exercise for African families and their businesses

Wheels are great visual tools. When used in a diagram, they empower us to see at a glance all the different spokes that unify to achieve the whole. Such an analytical exercise is a useful starting point for African families and their businesses.

In striving for harmony – or balance – of that whole, we must consider all the factors affecting African private clients. Identifying them enables us to consider what impact those factors are or should be having on the rest.

At the outset, it is important to keep in mind that African families face all the usual challenges that their counterparts do in any corner of the world. These range from the fundamental concern of wealth preservation, through to planning income requirements, and considering succession.

However, apart from the usual issues, there are further pressures or regional factors affecting African families in particular. Let us go over each of these factors one by one.

Governance: Making place for the old and the new

The strength and success of an African family business is often tied to the entrepreneurialism and endeavour of a patriarchal founder. More often than not, his tireless pursuit of his mission has resulted in success, with established social and business status, and the ensuing wealth.

This means that the business structure is inherently hierarchical. Cultural norms of respect for elders and tradition favouring certain categories of family members, such as first-born children, compound this issue. Societal norms arising from multiple marriages or complex customary relationships also need to be accounted for.

Finally, patriarchs send their children to the UK, USA and Australia for education and career development. Upon returning home, the youth bring fresh ideas, an innovative spirit and a loyalty to family that is also characterised by the pressure of "large shoes to fill" or a family name to "live up to".

> Engaging with the second and third generation is key

Engaging with the second and third generation is key. Planning for their ideas to be considered and integrated into the business will motivate them. Harnessing the passion of their ideas and fusing those with the family business can also achieve diversification. Good governance uses loyalty and ideas to generate value. Suppressing or ignoring such energy brings the risk of conflict (personal and professional). Such conflict can become entrenched – making succession planning more difficult than it needs to be.

Organisation: Making sense of diversified structures

The opportunistic character of investments built up by African clients over a long period of time means they have very varied business interests and assets which do not necessarily focus on one sector. Rather, they reflect the opportunity presented to the patriarch to invest. Such opportunities may have ranged across industries, decades and jurisdictions. A typical family conglomerate might include construction, retail, industrial and real estate investments – instead of being entirely focussed on one sector, such as energy.

A good first step is to reorganise shareholdings and implement an ultimate holding structure, with reporting lines, responsibilities and segregation of joint ventures away from the core business and private family assets. In Africa that often entails identifying what belongs to whom in the family (and which are business assets) since those lines blur in practice.

The advantages of completing this exercise include streamlining compliance, organising ownership records and empowering executives in the group to focus on priorities. This generates value across the group and opens the door to sustainability and innovation.

Risk management: Mitigating geopolitical risks

The geopolitical countenances of the continent prompt the need to mitigate currency fluctuation, local inflation, the risk of asset sequestration and the ability to move investment monies across borders.

Settling wealth and asset planning arrangements such as trusts or incorporating investment vehicles can help. Efficiency lies in taking advantage of double tax treaties, such as those between Mauritius and African countries. Mauritius supplements that fiscal advantage for African clients with accessibility to qualified, friendly and multi-lingual fiduciaries and administrators whose skilled labour is accompanied by insight and expertise.

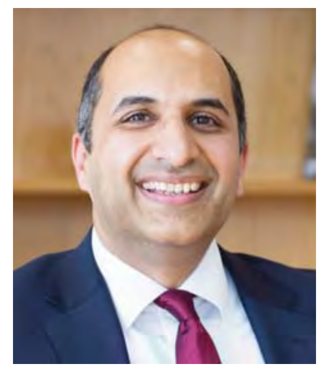
It is a false economy to cut corners when retaining such services. Some African clients have discovered that the hard way, after being side-lined as high risk by their service providers or even, in the worst-case scenario, defrauded by them. The sophistication of the Mauritian market means that it now offers expert insights from professionals who not only understand the cultural norms and dynamics of African families but who actually have a passion for working with African clients and supporting them in fulfilling their aspirations.

Balancing the wheel of life

In the ultimate analysis, the key to keeping a wheel spinning is as simple as ensuring its balance and infusing proactive effort into the exercise.

By starting with an understanding of the family and its mission and harnessing the power of good governance and working with best-in-class professionals, a sustainable approach to wealth and business succession planning is one that is well within reach for clients from Africa.

By Gordon Stuart,
Managing Director of Accuro Mauritius



By Mustafa Hussain,
Private Office Legal Counsel of Accuro London

Mauritius
Africa's Philanthropy Hub

As private giving from countries around the world is on the rise, Assad Abdullatiff, Managing Director of Axis Fiduciary Ltd, sees opportunities for Mauritius to become a jurisdiction of choice for the structuring and professional management of charitable and philanthropic activities aimed at Africa

Private giving from all countries around the world is on the rise and this has created a new space for a whole range of professional services around charity and philanthropy. Mauritius offers not only the right legal vehicles to accommodate philanthropic ventures but also a number of other advantages through its conducive business ecosystem. It also has a clearly articulated Africa strategy with strong historical, cultural and geographical links with Africa. There is therefore no reason why Mauritius cannot become a jurisdiction of choice for the structuring and professional management of charitable and philanthropy activities aimed at Africa.

Introduction

The word Philanthropy is derived from the Greek words "philo," which means loving and "anthropos" which means humankind. Philanthropy can therefore be broadly defined as love for humankind and is the desire to promote the welfare of others, expressed especially by the generous donation of money to good causes. It contrasts with business initiatives, which are private initiatives for generating pecuniary gain. Philanthropy should also be distinguished from charity, because whilst the latter's objective is to eliminate the suffering of a particular social problem, such as poverty, philanthropy attempts to address the root cause of the problem although there is some degree of overlap between the two.

Rise of philanthropy

The interest in philanthropy across the world has been on the rise. This is due to the explosion in global wealth over the last couple of decades and is fuelled by a desire by those who have benefited from economic expansion to make a difference to society at large. But philanthropy is not limited to the super rich. With the advent of technology, there is now more general awareness of the complex problems of our time and simple ways of channelling funds to worthy causes. Social media in particular has been instrumental in raising awareness and in promoting solidarity around a movement. Crowdfunding, through websites tailored to showcase specific projects or causes and accept donations seamlessly, has allowed the raising of money with donations from a large number of people for worthy causes.

Making an impact

It is fair to say that over time, the face of philanthropy has changed. According to Professor Vogel, "Philanthropy is clearly getting more organised and professionalised". Indeed, today's donors set impact goals, research the social or environmental issues they want to address and come up with funding strategies. Once funds are deployed, they measure impact and may accordingly refine or redefine their strategy.

Exigencies of the modern philanthropist

The professionalisation of philanthropy means that philanthropists are increasingly adopting business-like techniques and standards to make sure that they are able to appeal to donors. This means that they need the right vehicle for their philanthropy/investment initiative, to demonstrate good governance and the professional management of funds, to show how impact is measured and report to their donors/investors. That is where the use of an appropriate jurisdiction from which to conduct the philanthropy project can have all its importance.

The right structure

Mauritius is an ideal jurisdiction for the establishment and administration of philanthropic structures. It offers the following vehicles, which are all exceptionally well suited to supporting philanthropic ventures:

Philanthropic Trusts

The Mauritius Trust has all the attributes for use in philanthropy. A trust can be specifically structured as a charitable trust so long as the trust has as its exclusive purpose or object one or more of the following:

(a) the relief of poverty;
(b) the advancement of education;
(c) the advancement of religion;
(d) the protection of the environment;
(e) the advancement of human rights and fundamental freedoms;
(f) any other purpose beneficial to the public in general.

Philanthropic activities would normally fall under one of the above purposes but even if they do not, the law allows a trust to be established for non-charitable purposes.

> Philanthropy can be broadly defined as love for humankind

Every trust set up in Mauritius must have at least one Qualified Trustee which is defined as a person specifically licensed or authorised by the Financial Services Commission of Mauritius. This ensures that all trusts are professionally managed, supervised, and subject to the AML/CFT framework.

Trustees have a number of statutory duties, including fiduciary duties, a duty in respect of the trust property, a duty to act together in case there is more than one trustee and a duty to act impartially. In particular, Trustees must keep updated and accurate accounts and records of their trusteeship.

Philanthropic Foundations

Alternatively, a philanthropic initiative may be undertaken through a foundation. There are a number of similarities between trusts and foundations, but the main difference is that a foundation is a legal entity in its own right and can therefore own assets directly. It may therefore be better suited to those clients who prefer to use a vehicle which has a legal personality.

In the context of philanthropic activities, similar to a trust, a foundation can also can be specifically

By Assad Abdullatiff,
Managing Director,
Axis Fiduciary Ltd, Mauritius

> Philanthropists are increasingly adopting business-like techniques and standards

structured as a charitable foundation so long as its exclusive purposes or objects are charitable. The definition of "charitable objects" is similar to that of trusts. Similarly, if the specific philanthropic activity does not fall under one of the defined charitable purposes, the law allows a foundation to be established for non-charitable purposes.

A foundation is managed by a Council which carries out the objectives and purposes of the foundation. The law requires all foundations to have at least one council member resident in Mauritius. To ensure that foundations are professionally managed, supervised and subject to the AML/CFT framework, every foundation must also have a qualified secretary in Mauritius which is defined as a person specifically licensed or authorised by the Financial Services Commission of Mauritius.

Taxation of Philanthropic Trusts/Foundations

Both the charitable trust/charitable foundation are exempt from income tax in Mauritius, whereas a non-charitable trust/foundation of which the settlor/founder is a non-resident of Mauritius and the purposes for which it has been set up are conducted outside of Mauritius can make a declaration of non-residence which will also render it not to be subject to income tax in Mauritius.

Other attributes

Stability

Mauritius is a worldwide reference for political stability in this side of the world with a presidential democracy modelled on the British parliamentary system with the highest court of appeal being the Privy Council of the United Kingdom.

Regulatory framework

Philanthropists will benefit from operating in a well-regulated jurisdiction which is supportive of international initiatives (FATF, Basel, IOSCO, IAIS) aimed at preventing the jurisdiction from being used for money laundering and terrorist financing. The two regulators for the Financial Services Sector, namely the Financial Services Commission and the Bank of Mauritius, are dedicated to the supervision of the banking and non-banking financial services sector.

Expertise

As a leading International Financial Services Centre, Mauritius has developed a fine brand of diligent, educated, multilingual and experienced network of specialists in wealth management, private banking, law and accounting. It has a burgeoning branch of STEP which is the leading global professional body of practitioners specialising in inheritance and succession planning. STEP members are well versed in helping clients to support charitable causes in an effective way.

> Over time, the face of philanthropy has changed

The investment corridor to Africa

Mauritius is widely heralded as the "Gateway to Africa" and is already playing a pivotal role in facilitating investments in Africa. it is already trusted by institutional investors, development finance institutions, family offices and other investors who find it to be the natural domicile for investment into Africa.

Conclusion

Private giving from all countries around the world is on the rise and this has created a new space for a whole range of professional services around charity and philanthropy. Mauritius offers not only the right legal vehicles to accommodate philanthropic ventures but also a number of other advantages through its conducive business ecosystem. It also has a clearly articulated Africa strategy with strong historical, cultural and geographical links with Africa. There is therefore no reason why Mauritius cannot become a jurisdiction of choice for the structuring and professional management of charitable and philanthropic activities aimed at Africa.

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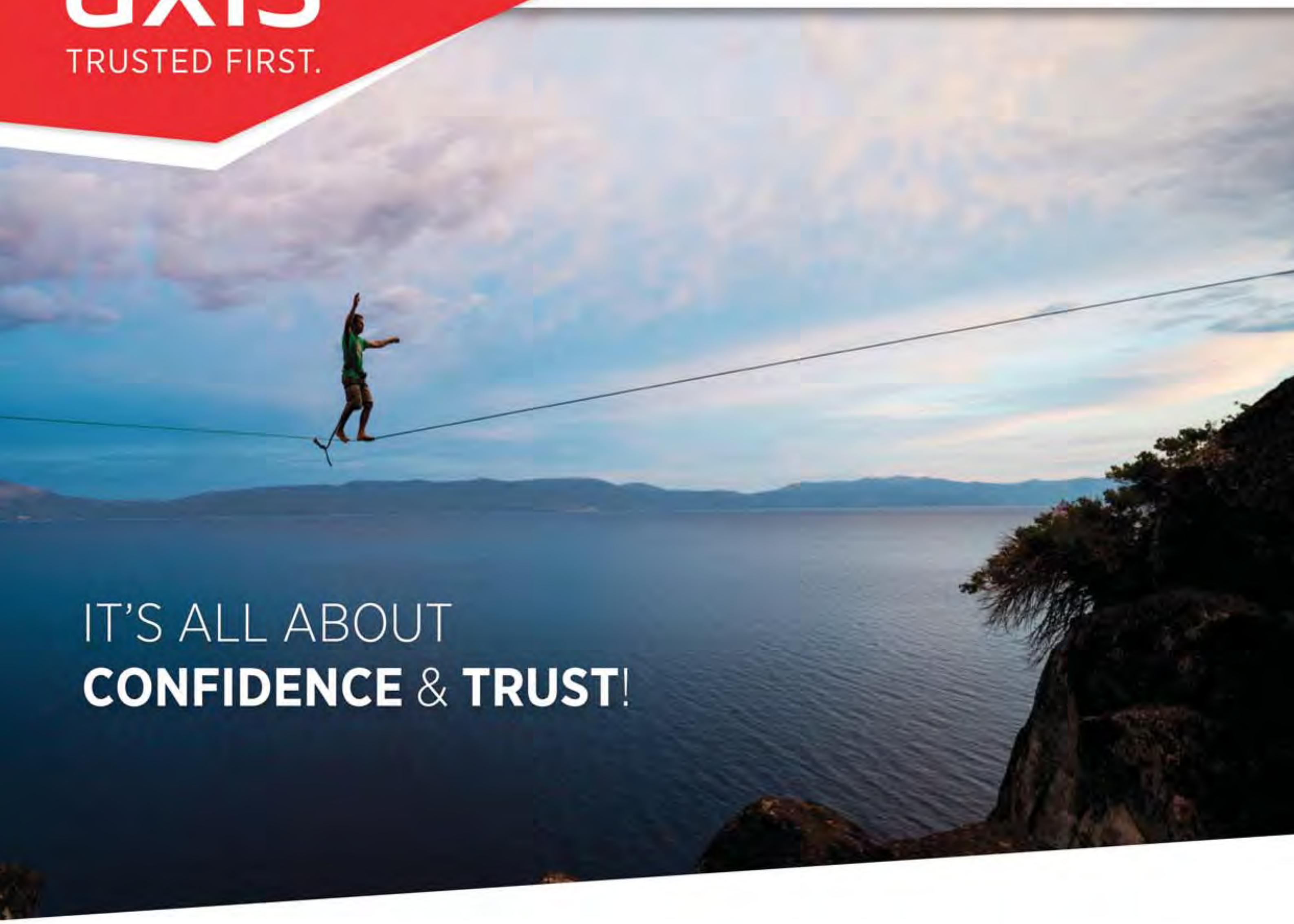

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Where common law meets civil law in Mauritius

A review of the similarities and differences between the Private Foundation and Trust reveals that both are versatile structures with a range of potential uses for international clients, such as accumulation and preservation of wealth, the financing and protection of assets, and succession and tax planning

By Shammeem Abdoolakhan, Director Vistra Trustees Limited, Head of Private Clients

There has been an increase in the popularity and use of the Foundation in recent years by both international clients and private wealth managers. However, there are a number of different schools of thought on the appeal and effectiveness of the Foundation as an alternative to the trust. Some arguments have been put forward that it is more complementary to the trust than an alternative.

Although trusts have traditionally been used in the context of Private Wealth management, they have a long history (which dates back to medieval times) with a proven track record, mostly in common law jurisdictions such as the United Kingdom and its crown dependencies, such as Jersey, Guernsey and the Isle of Man. On the other hand, the Private Foundation finds its origins as early as 1926 and is a relative newcomer to the world of financial services. It has, of course, long been associated with civil law jurisdictions, most notably Liechtenstein. The Mauritius Foundations Act 2012 was enacted and came into force in July 2012. This piece of legislation sets out the legal framework for the registration of Foundations in Mauritius, adding to the existing suite of legislation which includes the Trust Act 2001.

Differences between trusts and Foundations

It is a widely held view that international clients, especially those from civil law jurisdictions, may find it easier to understand the concept of the Foundation than the trust. As always, there is more than one side to the story and it is important that we all understand the trust versus the Foundation debate. From the outset, the following differences can be noted.

Firstly, the Foundation is an independent legal person with legal capacity to sue and be sued in its own name, whereas the trust is not. The Foundation will usually have the rights, powers and privileges of an individual and may hold assets in its own name. Broadly speaking, a Foundation is a self-owning legal entity, separate from its founder, officers and beneficiaries (if any) which has a foundation council that is responsible for its administration. In contrast, our more familiar friend the trust does not have separate legal personality, does not beneficially own assets and cannot be made personally liable for the trust's debts.

Secondly, as per the provisions of the Mauritius Foundations Act 2012, a Foundation has to be registered by lodging an application to the Registrar of Foundations accompanied, inter alia, by a declaration from a legal practitioner confirming that the application complies with all the relevant requirements of the Act. On the other hand, the Trust Act 2001 does not provide for a trust to be registered in Mauritius. Although the Registration Duty Act provides for all Deeds to be registered with the Registrar General, it is almost unanimously agreed by trust practitioners in Mauritius that this is not required as the trust deed or settlement as executed by the Trustee and/or Settlor is a validly constituted document.

It is often said that a Foundation is dressed like a corporation and yet has the soul of a trust. Although international clients, mostly those from civil law jurisdictions, may find it easier to understand the Foundation concept, they have much more difficulty in coming to terms with the concept of split ownership of assets, which is fundamental to the trust to avoid a Sham argument. The idea of "gifting" assets to the Trustees (who are often unknown to the client and based in foreign trust jurisdictions) makes

clients ill at ease with the structure. Similarly, clients originating from common-law jurisdictions may find it difficult to relinquish control to an orphan vehicle which resembles a corporation.

Furthermore, Settlor and Founder control retention issues must also be taken into account. The Sham trust argument has very often been put forward by tax authorities to challenge the integrity of the structure. Although the Founder may in theory retain an active role in the day-to-day management and control of the Foundation, the contentious issue remains with the excessive right and powers reserved by the Settlor in certain cases. Depending on how the Foundation's constitutional documents or the trust deed are drafted, the power given to a Founder or a Settlor may determine the validity of the structure. It is therefore more appropriate to state that in a trust or a Foundation context, the Founder or the Settlor should have a genuine motivation to transfer their assets to the structure and retain only a level of control that does not expose the structure to the Sham risk.

Last but not least, a number of potential issues must be borne in mind, such as the perpetuity period. Under the Trust Act 2001, a discretionary trust is subject to a life span of 99 years as a perpetuity period. This is, however, not applicable for purpose and charitable trusts following amendment of the Trust Act in 2011. On the other hand, the Foundation can usually last for an indefinite period of time. The Foundation is normally used mostly as a holding structure and generally cannot engage directly in commercial operations whereas trusts may be used for trading and commercial purposes.

> A Foundation is dressed like a corporation and yet has the soul of a trust

Similarities between Foundations and trusts

That said, there are also striking resemblances between Foundations and trusts and, in their basic form, Foundations serve a very similar role to private and charitable trusts as well as for philanthropic activities. Further similarities can also be noted in the constitutive documents. As is the case in Mauritius, there is a requirement for a Foundation to be registered (much like a company being incorporated) and in some cases the Foundation Charter is similar to the constitution/Memorandum and Articles of a company and the foundation council members are akin to a board of directors. The Foundation's constitutional documents (i.e the foundation charter) may in many respects resemble a discretionary trust or fixed trust instrument and, in most cases, can be set down during the Founder's lifetime or upon death (foundations can be set up inter vivos - by Charter) or by will. The function of the office of Protector can also be found both in the Trust Act 2001 as well as in the Foundation Act 2012.

> One important feature which makes both structures appealing to international clients is the confidentiality aspect

One important feature which makes both structures appealing to international clients is the confidentiality aspect. Section 33 of the Trust Act 2001 clearly defines under which circumstances and to whom information relating to the trust's affairs may be disclosed. Similarly, Section 46 of the Foundation Act 2012 preserves confidentiality in respect of information relating to the Foundation.

> All is not black and white when it comes to wealth planning for international clients

In terms of tax treatment in Mauritius, there are certain provisions that put both structures at par in terms of their attractiveness. Mauritius levies a uniform income tax rate and, as such, a Foundation is liable to income tax on its chargeable income at a rate of 15%. However, similarly to the trust, where a Foundation complies with substance requirements with respect to the generation of specific income types, it may benefit from a preferential tax rate of 3%. In addition, as per income tax provisions applicable to the trust, both the trust and the Foundation can elect to be non-resident in Mauritius for an income year by depositing a declaration of non-residence with the Director General of the Mauritius Revenue Authority (MRA) within three months from the end of the income year. Finally, any distribution to a beneficiary of a Foundation or beneficiary of a trust is considered to be a dividend to the beneficiary and is therefore exempt from income tax.

Making the most of trusts and Foundations as versatile structures to meet client needs

So, who do we believe to be the champion when it comes to Foundations or trusts? Perhaps in reality there is not a great deal to differentiate a trust and a Foundation. They are both versatile structures with a range of potential uses such as accumulation and preservation of wealth, succession planning, assets protection, tax planning, off balance sheet transaction and asset financing. Admittedly, they do not share the same history and the law of Foundations (certainly in common law jurisdictions) is generally less developed than trust law but this is not seen as a drawback by tax planners and wealth managers. The point here is that there may be differing views, methods and practices but all is not black and white when it comes to wealth planning for international clients.

The private wealth industry (in common and civil law jurisdictions alike) should adapt to client requirements and provide the best solutions using either of the structures or both. Interestingly enough, it has been noted that they can be used together in the context of estate planning where there is a need to have an orphan structure. For example, a Private Foundation can be used to hold the shares of a Private Trust Company (PTC).

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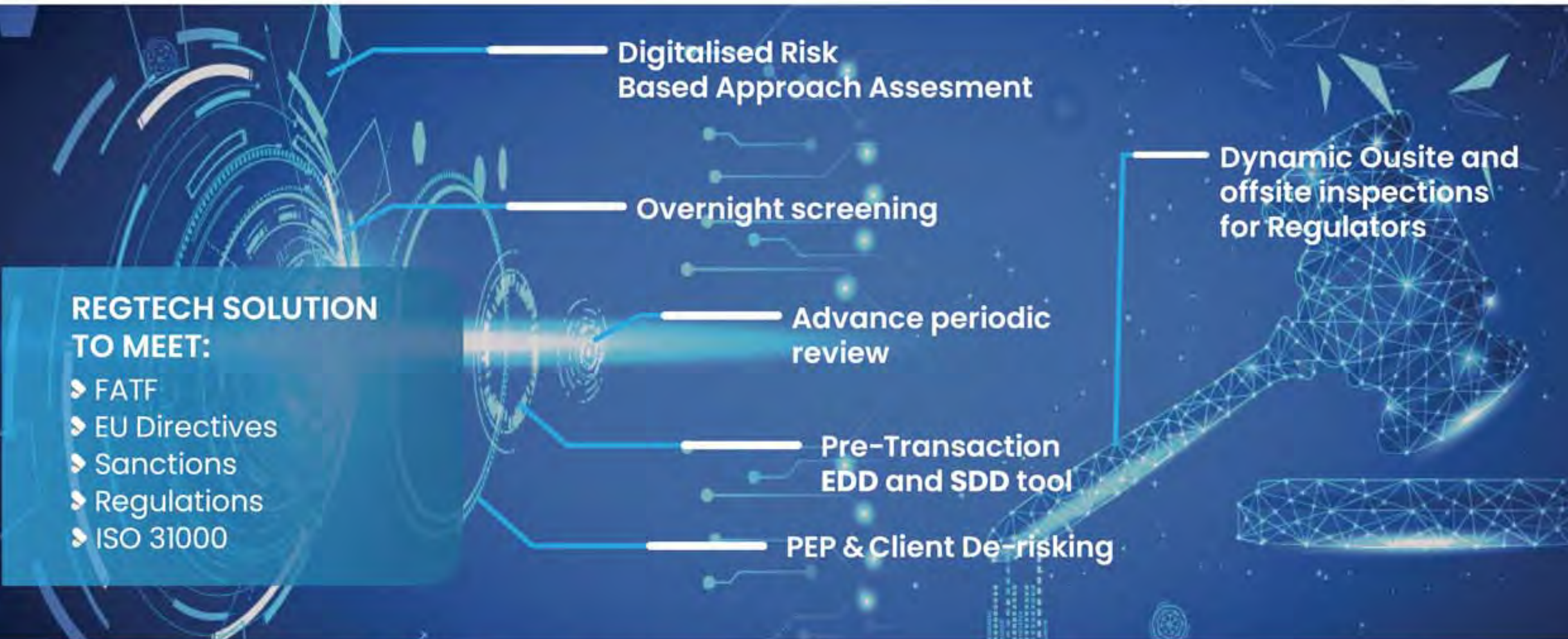

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Why trusts are an effective wealth and succession planning tool

Zuleikha Abbasakoor, Barrister-at-Law at Prism Chambers, explains how trusts offer the benefits of asset protection, flexible use and tax optimisation – and why Mauritian trusts are becoming increasingly popular among investors as a tool for succession planning and wealth management

Trusts have long been one of the most sophisticated fiduciary arrangements used for wealth control and asset distribution. Historically, trusts were predominantly used by wealthy individuals due to their complexity and costly nature. However, the use of trusts is becoming commonplace as more and more individuals are drawn to the benefits associated with trust mechanisms.

Mauritius has positioned itself not only as an appealing jurisdiction for proper estate planning but also as a hub offering an attractive lifestyle to foreigners who wish to relocate. Mauritius-based trusts have become popular among many investors on account of their flexible structure which makes them eminently suitable for leveraging investment opportunities and estate planning.

The three key features of Mauritian trusts

In this article, we will unpack three main features of Mauritius trusts.

The first element is geared towards asset protection, such that foreign investors are protected from forced heirship rules in their jurisdiction.

Secondly, trusts are known for their flexible nature, allowing settlors to both protect and enhance assets.

The third factor concerns tax optimisation, considering that a properly established trust may produce substantial savings in income tax and capital gains tax in Mauritius.

Asset protection

When it comes to succession planning, many investors are understandably wary of forced heirship rules. Where forced heirship rules intervene, individuals cannot freely bequeath their assets as they deem fit, since the protected heirs will be entitled to a defined portion of the assets. Our legislation for trusts intends that property transferred to a Mauritian trust is insulated against foreign forced heirship rules. This may well be of interest to investors who may be bound by such rules in their own jurisdictions.

That being said, Mauritius is a forced heirship jurisdiction itself, the consequence being that non-citizens who are willing to relocate to Mauritius and use a trust for estate planning purposes will be prevented from circumventing forced heirship rules in respect of their property. This is because according to Mauritian succession rules, when a person dies, the laws of that person's last domicile will apply to the movable property forming part of the deceased's estate.

In terms of immovable property, the succession law of the jurisdiction where the immovable property is situated will apply to the immovable property, irrespective of where the person was domiciled at the time of death. Therefore, forced heirship rules cannot be circumvented by transferring immovable property situated in Mauritius to a trust.

It appears that the legislator intended Mauritian forced heirship rules to apply in cases where a non-citizen is domiciled in Mauritius at the time of his death, despite discarding the application of foreign forced heirship rules. It is also worthy of note that forced heirship is a concept which is "d'ordre public" and requires any ambiguity in the law to be resolved in deference to this concept with strict interpretation of the rules.

Flexibility

Due to their flexible nature, trusts are not only used for estate planning purposes but also as investment vehicles. A trust allows foreign investors to channel their outbound investments whilst preserving any tax benefits in Mauritius. Discretionary trusts are commonly utilised to hold investments for tax efficiency purposes.

However, one of the consequences of choosing such a vehicle is that once property has been transferred to a trust, settlors who are not acting as trustees but are beneficiaries under the trust cannot freely dispose of or invest the trust's assets as they deem fit.

> Mauritius-based trusts have become popular among many investors

Assets settled in a trust are legally owned by the trustee. The discretionary powers conferred on the trustees in relation to the trust property are not entirely discretionary. This is because trustees have to abide by their fiduciary and statutory duties and fulfil their obligations to preserve trust property solely for the purpose of the trust or in the interest of the beneficiaries, in accordance with the terms of the trust deed.

In the absence of a specific provision in the trust instrument directing the trustees to make a particular investment or disposal of assets, the trustee(s) will be required to exercise sound discretion to determine whether a planned investment would be considered a "prudent investment" and in line with their fiduciary duties.

If a potential investment would not benefit or serve the needs of all beneficiaries under the trust, the trustee would likely steer clear of such a transaction in fear of facing repercussions from an aggrieved beneficiary. As a consequence, although a transaction may seem commercially sound for an investor holding investments through a trust, he may not have the freedom to engage in such a transaction once the property has been transferred to a trust.

An option would be for the settlor to include a specific provision in the trust instrument explicitly permitting a trustee to undertake certain transactions. However, this may be practically challenging as it would require a significant amount of foresight on the part of the settlor/investor.

> Trusts are known for their flexible nature

For sophisticated family trusts holding complex portfolios, it is common to have the trustee appoint an investment adviser (with or without a discretionary mandate) to make investments on behalf of the trust.

From an investment and tax perspective, it is advised that trust instruments be drafted by specialists such as lawyers so as to ensure that the intent of the settlor is well reflected in the document.

Tax Optimisation

A trust is tax resident in Mauritius if it is administered in Mauritius and a majority of the trustees are resident in Mauritius. In addition, where the settlor of a trust was resident in Mauritius at the time the trust was established, that trust will also be considered a tax resident in Mauritius. Non-residents usually find themselves in a situation where they set up a trust while they are residing in Mauritius and the trust is automatically considered as a Mauritian resident for tax purposes even if all beneficiaries under the trust reside abroad. The fact that Mauritius resident trusts may trigger the application of Double Taxation Avoidance Agreements (DTAAs) depending on where the beneficiaries are located may also be attractive.

Although a Mauritian trust can, in practice, be exempt from income tax by way of filing a declaration of non-residence on a yearly basis, this requires the settlor and all the beneficiaries under the trust to be non-residents during that income year. Therefore, a trust whose non-citizen settlor or beneficiary relocates to Mauritius during an income year will not be able to meet this requirement for that year.

One way to avoid any such issue arising would be to interpose a non-resident structure between the trust and the non-citizen who wishes to reside in Mauritius. In such a case, the non-resident entity will be considered as the settlor instead of the non-citizen and the trust will not be considered as Mauritian resident for tax purposes provided it is not administered in Mauritius.

Therefore, even where the resident settlor is a beneficiary under the trust, the trust will not be liable to pay income tax in Mauritius given that the trust will not be considered as a resident for tax purposes. In the absence of strategic planning prior to the implementation of the trust, a foreigner may lose tax benefits that he would have otherwise received by setting up a trust.

In 2020, the government of Mauritius significantly increased the rate of solidarity levy applying to individuals whose income exceeds Rs 3 million. Distributions made under a Mauritian trust are considered as dividend for income tax purposes. Although local dividends are exempt from income tax, they will be taken into account in the calculation of the individual's income for the purpose of determining whether he will be required to pay solidarity levy. This will be relevant where the beneficiaries are resident in Mauritius.

The importance of seeking specialist advice

From the above, it can be concluded that although the key features of trusts may seem appealing at first blush, it is of paramount importance to seek specialist advice on certain issues to counteract any risks for investors.

Indeed, obtaining legal and tax advice from professionals who have a robust knowledge of the snares of the underpinning legislation is strongly recommended so as to ensure that the benefits are maximised and that neither the settlor nor the beneficiaries face any unpleasant surprise at a later stage.

By Zuleikha Abbasakoor,
Barrister-at-Law,
Prism Chambers

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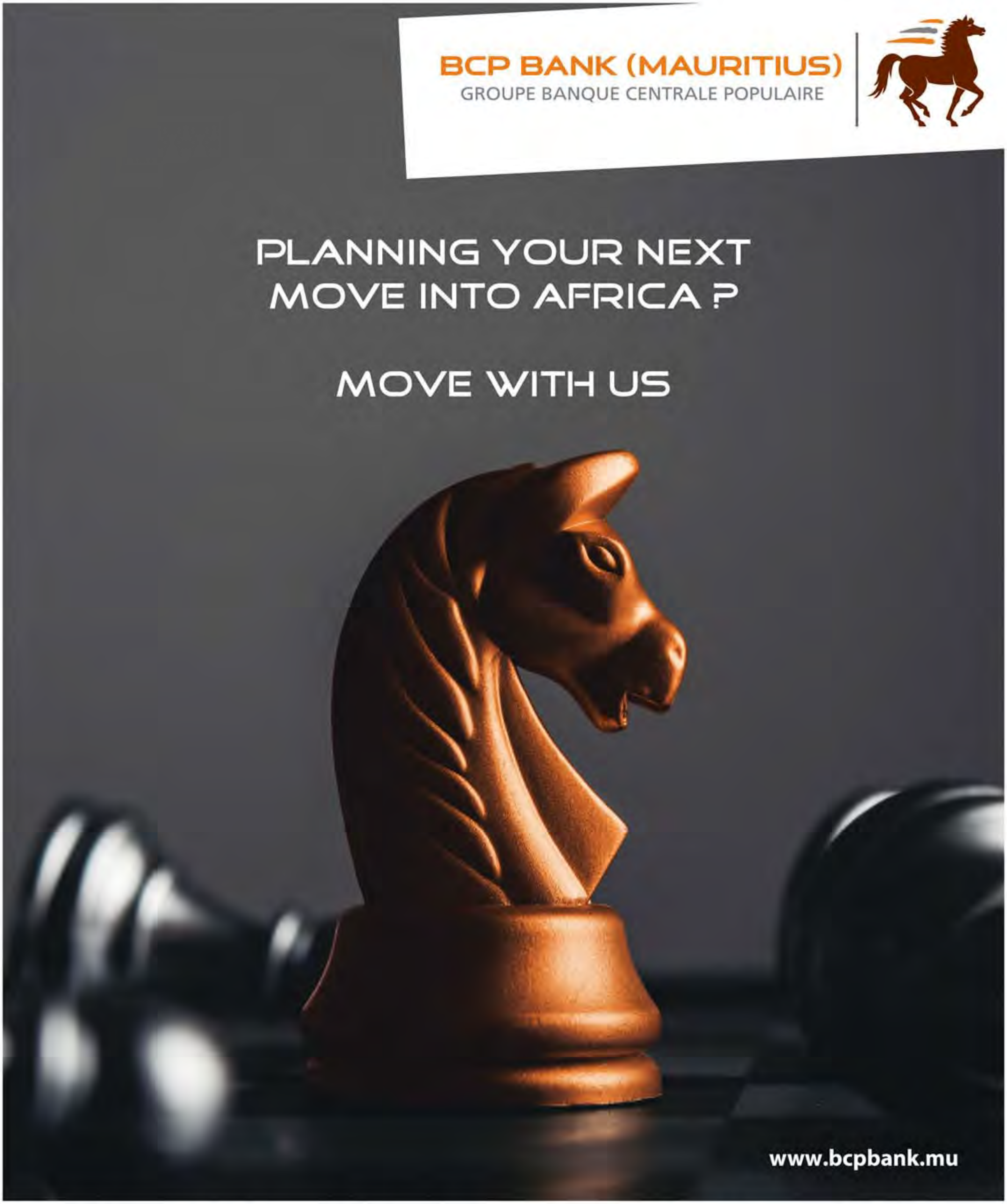

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Positioning Mauritius as the ideal trading hub for Africa

Sangeetha Ramkelawon, Deputy CEO at BCP Bank (Mauritius), explains how the COVID-19 crisis can be leveraged to enhance the attractiveness of the Mauritius International Financial Centre and to reinforce the jurisdiction's strategic partnerships with neighbouring African countries such as Morocco

By Sangeetha Ramkelawon, Deputy Chief Executive Officer at BCP Bank (Mauritius)

Lying at the crossroads of Africa and Asia in an enviable strategic location, Mauritius has demonstrated in the past – and continues to prove - its positioning as the springboard to the African continent.

Despite the economic challenges in these unprecedented times, it is now more important than ever to turn the COVID-19 crisis into investment opportunities, not only to respond to challenges posed by the pandemic but also to position Mauritius as the perfect hub for trading and investment.

The trading landscape in Africa

With a relatively young and increasingly urban population, an abundance of natural resources, and the capabilities to explore strong emerging sectors like agriculture, supply chains, technology, finance and telecommunication, there is no doubt that Africa remains an attractive investment destination.

According to the United Nations Conference for Trade and Development (UNCTAD) data for the period 2015-2019, the average value of Africa's total trade was USD 760 bn per year which represented 29% of Africa's GDP. As highlighted in the 'Trade Finance in Africa' report published in September 2020, the average size of bank-intermediated trade finance in Africa for the period 2011-2019 was estimated at USD 417 bn.

The report highlights that Development Finance Institutions (DFIs) play a fundamental role in supporting trade finance intermediation in Africa, whereby an average of 60% of banks that engaged in trade finance activities during 2015–2019 received some form of DFI support. It is noted that support from DFIs is concentrated among banks based in West and Southern Africa and foreign-owned private banks all over the continent. Trade finance therefore remains a sought-after activity among banks in Africa, and in spite of the participation rate continuing to decrease – dropping by 16% between 2013 and 2019 – Africa's quest for sustainable economic transformation is yet to be explored.

Moving forward, according to McKinsey and Company, the COVID-19 crisis "contains the seeds of a large-scale reimagination of Africa's economic structure, service delivery systems and social contract. The crisis is accelerating trends such as digitalisation, market consolidation and regional cooperation, and is creating important new opportunities - for example, the promotion of local industry, the formalisation of small businesses and the upgrading of urban infrastructure."

With increased intra-African trade, the new and emerging Africa can contribute largely to cross-border businesses in various sectors and, at the same time, minimise the limitations of unfavourable boundaries for landlocked countries.

Mauritius, the ideal springboard to Africa

Having long been a trusted investment route, Mauritius has always been considered as a safe jurisdiction for cross-border businesses.

With a strong track record in facilitating investments across Africa and the rest of the world, the island continues to leverage the many advantages that make it an International Financial Centre (IFC) of substance, including:

- A sophisticated banking system, with a robust regulatory and corporate governance framework;
- A hybrid legal system combining both Common and Civil law;

- A bilingual workforce, including a pool of finance, legal and accounting experts;
- A network of Double Taxation Avoidance Agreements & Investment Promotion and Protection Agreements;
- An attractive fiscal regime;
- The memberships of major regional organisations – the Common Market for Southern and Eastern Africa (COMESA), the Southern African Development Community (SADC) and the Indian Ocean Rim Association (IORA);
- The signatures of the COMESA-EAC-SADC Tripartite Free Trade Agreement as well as the African Continental Free Trade Agreement (AfCFTA), all aimed at boosting intra-African trade;
- Being ranked 1st in Africa (and 13th out of 190 countries worldwide) by the World Bank for Ease of Doing Business in 2020.

Bridging the Morocco-Mauritius trade and investment corridor

Strategically positioned at the heart of pan-Africanism as a catalyst to drive ambitious growth in Morocco and Africa, the Casablanca Finance City (CFC), which is mainly focused on foreign investments, particularly those targeting Africa, represents modernisation and internationalisation for the continent. The newly created financial centre includes around 43% of companies that come from Europe, which in turn cover or target 46 African countries.

In terms of investment flows between Mauritius and Morocco, in recent years Mauritian investments in Morocco have been focused mainly on the tourism sector, while Moroccan investments in Mauritius have been mostly noted in the banking arena as well as some Global Business Companies and other investment structures whereby Mauritius has been used to invest in Africa.

As highlighted in a thought leadership seminar organised by BCP Bank (Mauritius) earlier this year, Morocco is today perfectly placed as an international financial hub facilitating access to North, West and Central Africa, with an economic diplomacy that is increasingly targeted towards sub-Saharan Africa, where we are supporting investors looking for international expansion, particularly in Morocco and in Africa. Using Mauritius as the investment gateway creates significant opportunities for investors in emerging, diversified sectors such as industrial acceleration, agriculture, fishing, textile and metallurgy, offshoring zones, BPO, FinTech, tech start-ups, data centres and telemarketing, among others.

The Casablanca Finance City represents modernisation and internationalisation for Africa

Morocco has also established policies to offer incentives to foreign investors aimed at providing maximum legal certainty in terms of transferability of proceeds of investments.

Having reinforced its policy to attract foreign investments, Morocco is recognised for its:

- cost competitiveness;
- strong and stable macroeconomic performance;
- agreement with the EU;
- 52 international tax treaties (DTAAs) with Europe, Africa, Asia and USA & agreements for promotion and protection of investments (IPPAs);
- free trade access to over 50 countries representing more than one billion consumers and 60% of the world's GDP;
- high-end infrastructure, skilled workforce and a steadily improving business climate.

These are all complementary elements which show the significant potential of its business relationship with Mauritius, representing a vast, untapped opportunity that is yet to be explored.

The path ahead

No doubt, the COVID era represents many challenges ahead, but with a different perspective we can seize the opportunity to address the limitations, leverage knowledge and digitalisation to trade, and explore strategic partnerships with our neighbours such as Morocco, among others.

This will allow us to fully capture growth-enhancing benefits for the African continent, while positioning the Mauritius IFC as Africa's trading hub.

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It's the perfect time to reimagine remuneration

Karen Greyvenstein, Associate Director at PwC Mauritius Advisory, explains how the COVID-19 crisis has presented an unparalleled opportunity for employers to rethink their workforce and rework their remuneration structure to retain employees while balancing employment costs

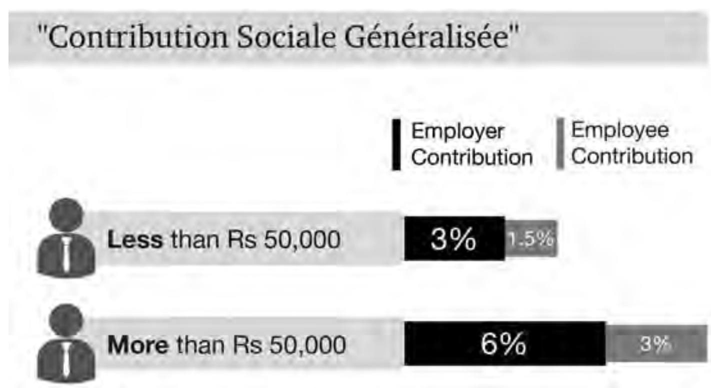
The COVID-19 pandemic has caused many employers to rethink their workforce and constantly evolve their workplace. More than ever, employers are being challenged to balance their increasing employment costs with the need to meet their talent demands to support the return to sustainable growth.

Indeed, employers are under enormous pressure to effectively manage employment costs and maximise the return on the overall investment in their workforce. These uncertain times have pushed many companies to take a fresh look at their total reward strategy to ensure that it aligns with the new and evolving needs of their workforce.

The remuneration landscape in Mauritius

The dilemma for many companies today is how to continue attracting and retaining their workforce without having to add more and more to their employment costs. Most of the increases in employment costs over the last year were not by choice, they were statutory, and employers simply had to comply. For instance, in Mauritius, we've had the introduction of the Portable Retirement Gratuity Fund (PRGF) in January 2020. On top of that, the Contribution Sociale Généralisée (CSG) was introduced in September 2020.

CSG has replaced the old National Pension Fund (NPF) system, and is intended to guarantee a monthly income to retired citizens above the age of 65 as from July 2023. For private sector employees, the employer must contribute 3% of basic salary of an employee earning less than Rs50,000 per month, and 6% for an employee earning more than Rs50,000 per month. In addition to the employer contribution, employees also contribute 1.5% and 3% of their basic salary respectively (see diagram). Compared to the NPF system, there is no ceiling applicable to the amount to be contributed for CSG.



By way of an example, in January 2020, an employer was contributing Rs1,124 towards NPF for an employee earning Rs55,000 per month. Now, under CSG, the employer contributes Rs3,300 per month for the same employee. This represents an increase in the employer's contribution of almost 3 times. Without any increase in the employee's basic salary or benefits, there's already almost a 4% increase in employment cost. Notwithstanding that, the same employee would also be out-of-pocket with an additional Rs1,088 per month that they need to contribute towards CSG.

Having said that, there are ways for companies to continue attracting and retaining their workforce without having to add more to their employment costs.

As someone who has been in the PwC family for more than 10 years, and is currently part of the People & Organisation Consulting team specialising in Remuneration and Employment Solutions, I would like to share my insights on what an ideal remuneration structure in these challenging times would look like.

Visualising the ideal remuneration structure

So, what should the ideal remuneration structure look like? In a nutshell, an ideal remuneration structure should promote simplicity, flexibility and better understanding. It should also encourage financial wellness through training and education.

Employees should be offered lifestyle choices, instead of being given options that might be perceived as paternalistic. Providing a remuneration structure that aligns with the unique challenges of an employer's workforce can help employees better cope and manage their personal lives, and encourage them to bring their best selves to work to contribute to the business, both during and after the pandemic.

The Total Guaranteed Package ("TGP") model is gaining in popularity and could support companies in achieving this ideal remuneration structure. TGP refers to a remuneration structure in which all current benefits, both compulsory and add-on, are converted to a monetary value. Employees are then at liberty to request their employers to structure their TGP based on their personal lifestyle and choices.

How flexible benefits can be structured

In such a structure, there would normally be prescribed minimum core benefits for medical, retirement and life/permanent disability cover. Employees then have the flexibility of structuring their package based on what they truly need, rather than simply accepting compulsory benefits that are provided by their employers.

For example, PwC Mauritius introduced a TGP remuneration structure in July 2019 and, at the time, more than 55% of employees elected to contribute less towards their retirement and to receive the additional cash on a monthly basis to cater for their needs. This came as no surprise as most of these employees are under the age of 35 and retirement is not their top priority. Instead, they prefer driving a flashy car, or simply enjoying their younger years. The clear message for employers is: The corporate world has to evolve to attract and retain this younger generation.

On the other hand, employees closer to retirement elected to contribute the maximum towards their retirement. It's important that there is still a minimum pension benefit as it would be irresponsible of an employer to allow their employees to convert, for example, the full retirement contribution into cash only. Further, any choices offered should be in line with the rules of the retirement fund. If not, rule amendments might be required and should be approved by the Financial Services Commission (FSC).

Another good example of flexible benefits would be to offer medical care with the option for employees to upgrade and/or add their dependents at their own cost, should they wish to have a more comprehensive cover. A group medical policy will normally be more affordable for employees to participate in than for them to get additional medical cover in their personal capacity.

By Karen Greyvenstein, Associate Director, PwC Mauritius Advisory – People and Organisation: Reward

> A company's remuneration structure should evolve to be motivational and exciting

Why this is the perfect time for optimising remuneration structures

There are many ways in which employers can offer a compelling, simple and flexible remuneration structure which support a thoughtful and purposeful employee experience. However, changes to any remuneration structure need to be managed carefully. Active employee engagement and buy-in are critical to ensure successful implementation as part of a continuously evolving process which ensures that employees are well educated and informed to make the right decisions.

All in all, a company's remuneration structure should evolve to be motivational and exciting. Just like every other part of a business, reward functions need to evolve to deliver on higher expectations. It's the perfect time to reimagine remuneration.

VINOD BUSSAWAH

CHIEF OPERATING OFFICER, MAURITIUS FINANCE

"Financial Services firms must upskill to stay competitive in a relentlessly changing market"

Vinod Bussawah, Chief Operating Officer, Mauritius Finance, highlights the steps that the industry body is taking to support its members on the training and capacity building front with a view to ensuring that the jurisdiction is well poised to meet crucial human resource requirements in the Financial Services (FS) Sector

What are the objectives of Mauritius in terms of training and capacity building for the FS Sector?

The Mauritius Financial Services Sector is competing with other jurisdictions in attracting international investors to set up their businesses locally. The quality and standard of our manpower has always been one of the main assets to convince such players in choosing our jurisdiction. In order to remain competitive and attractive, there is a dire need to not only hire highly qualified staff, but it is equally important to provide such staff with the right qualification and continuous training opportunities to enhance their knowledge and acquire new skills to allow organisations to improve staff performance and stay relevant within a rapidly changing environment. Setting up training and capacity building initiatives at the level of each firm individually is often put in abeyance as the staff have to attend to more pressing tasks and deadlines.

One of the recommendations of the 10-Year Blueprint for the Financial Services Sector is to upskill human capital, to ensure the deep specialisation needed for certain IFC activities in the future in the light of increasing innovation. At Mauritius Finance (MF), we believe that we play a crucial role in contributing to capacity building through advancing knowledge sharing by organising e-learning initiatives and hosting training sessions in the form of workshops, conferences and masterclasses for the industry. Organising such initiatives under the centralised roof of MF also makes the facilities more accessible and less costly to our members.

What will be the main focus areas for training and capacity building, and why?

The main areas of focus currently are capacity building in the field of Fund Administration and Accounting and Compliance where we have a shortage of skilled staff in the market. And, we are pleased to inform you that on this front we are offering a 3-month online course ("Certificate in Fund Administration and Fund Accounting") through CLT International in Association with the Alliance Manchester Business School.

An in-depth training on all aspects in the prevention and detection of Money Laundering and Terrorist Financing is also highly in demand given that compliance has become a backbone for the industry and there is an ever increasing need for Compliance Officers.

In view of this, Mauritius Finance is offering an MLRO Masterclass with an element of face-to-face interaction and online learning. The face-to-face interaction will take place at the Financial Services Institute (FSI) with interventions from the Financial Intelligence Unit (FIU) and the Financial Services Commission (FSC). On completion of the online course, participants are provided with a STEP Certificate in AML delivered by CLT International.

In the course of the year, MF will offer other training opportunities to employees of its members in the field of Compliance, Tax Updates, IFRS, Responsibilities of Directors in the Global Business Sector, Ethics and Integrity and other personal development courses.

To what extent is Mauritius Finance collaborating with government authorities with regard to training? How is this working in practice?

Both the government and the operators have a shared responsibility when it comes to providing training and capacity building opportunities to the players. MF works in close collaboration with the government, through its agencies like the Human Resource Development Council (HRDC), in identifying the skills gap in the sector and also developing approved training initiatives. Such measures are also aimed at preparing young graduates for the future by exposing them to effective learning which can translate into greater employability amid a challenging COVID-19 context.

> We have a crucial role in contributing to capacity building

We are also collaborating with relevant ministries, government departments and authorities such as the FSI to ensure that the right training is provided at the right time in the light of current challenges and opportunities for the Mauritius International Financial Centre (IFC) with a strong focus on promoting professional and ethical practice.

Does Mauritius Finance already have relationships with international training partners? If so, what are the advantages to Mauritius in bringing such partners on board?

As mentioned above, MF is already working hand in hand with CLT International in the UK, which is the global education partner of STEP, in providing the Certificate in Anti-Money Laundering (AML). STEP is the global professional body for membership and education in the field of Trust and Estate planning. The Certificate in Fund Accounting and Fund Administration is also internationally linked with the Alliance Manchester Business School.

We have also signed an MOU with the Chartered Institute for Securities & Investment (CISI) to offer a few online Continuing Professional Development

(CPD) courses to our members –including a 90 Minutes online course on AML (customised for Mauritius) to be launched soon, followed by a similar online course on Ethics and Integrity. We are also looking into the possibility of offering other CISI Certified courses to our members relevant to MIFC.

Having international partners on board exposes participants to international norms and best practices. It also enables them to acquire qualifications which are more widely recognised and therefore allow for more mobility of manpower between firms within and outside the industry locally or to competing jurisdictions internationally.

> The Financial Services industry is changing at an unprecedented rate

How crucial is upskilling for the future of the Mauritius IFC?

The Financial Services industry is changing at an unprecedented rate. Financial Services firms must keep pace—not only at an organisational level, but also in how they upskill their people in a relentlessly changing market. Upskilling can't exist in a vacuum – it should be integrated with existing talent and training programmes. Upskilling is a long-term project, but the pressure on firms to deliver short-term results has hardly abated. Due to both expansion and consolidation, firms that were already large have grown even bigger, and face a skills mismatch that's pervasive in global operations. By contrast, mature markets have an abundance of qualified employees while growing markets have a shortage.

The solution isn't as straightforward as simply relocating talent to higher-growth markets as COVID-19 has revealed the challenges of relying on international talent. More important, employees who understand the local context will have the best chance of being successful. Because the industry is changing rapidly, they must build the right skills for their organisation to continue to compete in the future. Yet, doing so requires making investments that won't generate a return for several years. In the meantime, they face relentless pressure to hit short-term financial targets.

Balancing both short-term financial targets and long-term training needs requires firms to rely on a support network – be it industry body like ours, public sector organisations, or international training institutions – to build a workforce with the right skills and experience that allows them to stay competitive in an ever-evolving Financial Services Sector.

TRAINING PROGRAMMES

QUALIFICATIONS

(in collaboration with CLTI)

- **Certificate in Fund Administration & Accounting**
  (In association with Alliance Manchester Business School)
- **Advanced Certificate in Fund Administration & Accounting**
  (In association with Alliance Manchester Business School)
- **STEP - Certificate in AML**
- **STEP - An introduction to GDPR**
- **STEP - Automatic exchange of information**
  (FATCA, CRS and AEOI initiatives)

WORKSHOPS / SHORT COURSES

- **Private Equity and Fund Accounting**
- **Property Funds**
- **Targeted Financial Sanctions & Suspicious Transactions Reporting**
- **Data Protection Act**

In collaboration with CISI:

- **AML/CFT Professional Assessment**
- **Integrity Matters**

We also offer:

- **Customised in-house trainings**

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New hurdles to transferring European personal data to Mauritius

Shalinee Dreepaul Halkhoree, Partner-Barrister at Juristconsult Chambers, explains how a data privacy decision in the case of Facebook Ireland has had far-reaching implications on how EU-based companies are now expected to approach the activity of transferring data to Mauritius for processing

On July 16, 2020, the Court of Justice of the European Union (CJEU), delivered its decision in the case of Data Protection Commissioner v Facebook Ireland and Maximillian Schrems (the Schrems II decision) which invalidated the EU-US Privacy Shield[1] and created new obligations, notably for businesses transferring personal data outside the European Economic Area (EEA)[2] .

This case concerns Maximillian Schrems, an Austrian national residing in Austria, who had been a Facebook user since 2008. Some or all of Mr Schrems' personal data was being transferred by Facebook Ireland to servers belonging to Facebook Inc. that are located in the United States, for processing. Mr Schrems lodged a complaint with the Irish supervisory authority seeking to prohibit those transfers by claiming that the law and practices in the United States did not offer sufficient protection against access by the public authorities to the data transferred to that country.

What the Schrems II decision means for Mauritius

Following the decision of the CJEU, prior to transferring personal data outside the EEA, organisations must verify on a case-by-case basis if the protection for personal data in the third country, such as Mauritius, for instance, to which the personal data is transferred, is 'essentially equivalent' to that provided within the EEA.

Consequently, companies which used to transfer data to Mauritius for the purpose of data processing (for example as part of Business Process Outsourcing – BPO – operations, or shared services functions) have started undertaking third country assessments to assess whether they can continue to transfer such data to Mauritius.

This assessment consists of understanding the legal, regulatory and surveillance regime of Mauritius to ascertain if there is anything in the Mauritian regime that would impact on the ability of the data exporter to export data to Mauritius.

Recommendations of the EDPB after the Schrems II decision

On November 10, 2020, the European Data Protection Board (EDPB)[3] issued recommendations on measures that businesses can adopt to supplement transfer tools, such as Standard Contractual Clauses (SCC)[3], in order to ensure that the third country complies with EU data protection law.

It may be noted that the EDPB has so far issued two sets of standard contractual clauses for data transfers from data controllers in the EU to data controllers established outside the EU or the European Economic Area (EEA). It has also issued one set of contractual clauses for data transfers from controllers in the EU to processors established outside the EU or the EEA.

Since Mauritius has not yet received an adequacy decision in its favour and is therefore not considered by the European Commission as having an adequate level of protection to personal data, the data importer has to enter into SCCs with its data exporter.

By Shalinee Dreepaul Halkhoree, Partner-Barrister, Juristconsult Chambers

The EDPB has also issued recommendations regarding the essential guarantees afforded by EU law in respect of surveillance measures, to serve as a guide for assessing the laws of countries where personal data is being transferred.

Supplementary measures

The recommendations of the EDPB contain a non-exhaustive list of supplementary measures that may be sufficient to ensure essential equivalency. These supplementary measures are grouped as technical, contractual, or organisational safeguards.

The technical measures include the encryption or pseudonymisation of data by the data importer[4] or ensuring that the data importers are exempt from government access. The contractual measures include obligations on the data importer to implement specific technical measures or be more transparent when processing data by the proactive disclosure of law enforcement requests or government access to data.

> Processing should be based on clear, precise and accessible rules

The organisational measures would include implementing policies and procedures regulating data transfers or having in place transparency and accountability measures, such as publication of transparency reports or the adoption of standards and best practice, such as codes of conduct or ISO standards.

EEG recommendations

The European Essential Guarantees for surveillance measures (EEG recommendations) of the EDPB supplement the recommendations on supplementary measures and provide specific guidance on how to assess whether a destination country's surveillance[5] laws that allow government access to data which interferes with the right to privacy, are justifiable in accordance with EU law.

The recommendations establish four EEGs that must be considered as part of the overall assessment. These are:

1. Processing should be based on clear, precise and accessible rules;
2. Necessity and proportionality with regards to the legitimate objectives pursued by the laws need to be demonstrated;
3. There should be the existence of an independent oversight mechanism; and
4. There should be effective remedies available to the individual.

Modernised SCCs as per the EU's draft decision after Schrems II

The European Commission (EC) launched, on 12 November 2020, a public consultation with respect to new SCCs which are intended to provide appropriate safeguards within the meaning of the GDPR[6] for the transfer of personal data from a controller or processor subject to the GDPR (data exporter), to a controller or (sub-) processor not subject to the GDPR (data importer).

Once the new SCCs are adopted by the European Union (EU), data importers in Mauritius will need to phase out and replace all existing SCCs they have entered into within 12 months of its adoption by the EU, an enormous task for many.

Consequences for Mauritius

Adopting new SCCs would entail that the data importer (i.e., the Mauritian entity) guarantees that it has provided appropriate safeguards to the data being imported and that enforceable data subject rights and effective legal remedies for data subjects are available in Mauritius. In addition, supplementary measures as highlighted above will need to be taken by the data importer. The latter will also need to satisfy the data exporter that its surveillance laws do not interfere with the right to privacy (including government access to data) and are justifiable in accordance with EU law.

Having said that, providing for adequate safeguards may not be a big challenge as our Data Protection Act 2017 (the Act) already imposes on controllers/processors the obligation to provide for such safeguards when they are processing data. The challenge for the way forward may instead lie in showing that the exchange of information between Ministries, Government departments and public sector agencies as provided by the Act as well as the exemption of the Act on grounds of national security, defence or public security are justifiable in accordance with EU law.

1. The EU–US Privacy Shield was a framework for regulating transatlantic exchanges of personal data for commercial purposes between the European Union and the United States, to enable US companies to easily receive personal data from EU entities under EU privacy laws.
2. EEA means the EU and Iceland, Liechtenstein and Norway.
3. The European Data Protection Board (EDPB) is an independent European body, which contributes to the consistent application of data protection rules throughout the European Union and promotes cooperation between the EU's data protection authorities. It is composed of representatives of national data protection authorities, and the European Data Protection Supervisor (EDPS).
3. The European Commission can decide that standard contractual clauses offer sufficient safeguards on data protection for the data to be transferred internationally.
4. The organisation which is receiving the personal data for processing purposes.
5. Surveillance is the monitoring of behaviour, activities, or information for the purpose of information gathering, influencing, managing or directing. This can include observation from a distance by means of electronic equipment, such as closed-circuit television (CCTV), or interception of electronically transmitted information, such as Internet traffic. It can also include simple technical methods, such as human intelligence gathering and postal interception.
6. General Data Protection Regulation (Regulation (EU) 2016/679)


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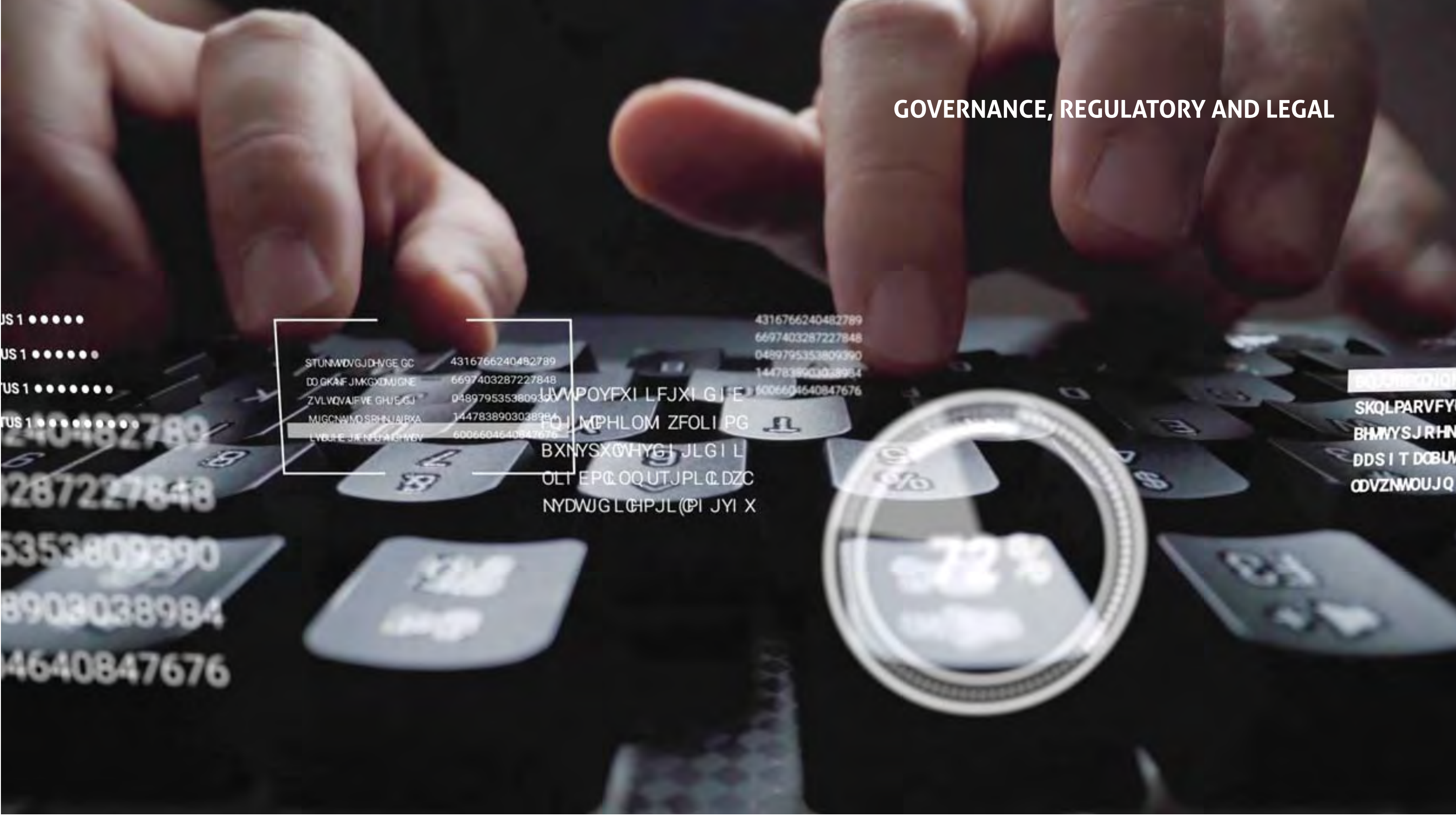

Cybersecurity: a wake-up call to CEOs

Dev Hurkoo, Managing Director of Rogers Capital Technology, explains that cybercrime and cyber-attacks have taken a totally new dimension over the past few years, to the extent that it is becoming critical to create necessary cybersecurity awareness for CEOs, for the business community and for the general public at large

It is important to be aware, first of all, that if the necessary cybersecurity measures are not implemented, it may be possible for a hacker to take complete control of your laptop remotely, view your emails and download your confidential and sensitive data without you noticing anything. The same thing may be done with your smartphone, where the hacker may have access to your SMS, your phone calls and your private data. Your smartphone may even be turned into a mobile spy device, monitoring you and spying on you everywhere you go.

CEOs and CXOs are particularly being targeted by cyber-criminals today. If you don't know how to protect yourself, a malicious cyber-criminal may not only take control of your laptop and your smartphone and have access to your confidential data but they may also track you as a person and gain an intrusive view into your private life and that of your family. The hyperconnected world that we are moving into is indeed very scary and deeply frightening.

Increasing cybercrime amid Work from Home

With the new organisational culture of "Work from Home", the situation has become even more complicated as employees are no longer protected by the same security systems that are normally deployed within the enterprise premises. Employees

Cybersecurity can no longer be considered only at micro level

By Dev Hurkoo,
Managing Director,
Rogers Capital Technology

at home become extremely vulnerable and this explains why the number of cyber-attacks and phishing attempts have drastically increased amid the COVID-19 pandemic.

The risk of data leakage and of cyber-criminals having access to user credentials to log into enterprise IT systems are not only real but also much higher with Work from Home. It is the responsibility of the CEO to ensure that necessary measures are taken to protect their employees against such attacks. Creating proper Cybersecurity User Awareness and building the Human Firewall becomes of paramount importance in the new normal.

Cyber-attacks become more sophisticated and destructive

Another trend we are observing is that cyber-attacks are becoming more and more sophisticated, increasingly fast-spreading, and appallingly destructive.

Ukraine recently suffered a major cyber-attack which severely crippled half of the country in just 2.5 hours. We are no longer in the old days where a single hacker would be trying to hack a single system on his own. Today, the world is having to deal with organised crime and state-driven attacks, where cyber-criminals have access to huge amounts of money, huge amounts of computing power as well as the best talents worldwide and where the impact can be massive and on a large scale.

Even if a business or country is not directly targeted, the impact of collateral damage from organised crime or state-driven attacks can be extremely costly as A.P Moller Maersk, the largest shipping container company worldwide, experienced in 2017. Its entire IT systems were brought down by the NotPetya virus. The company had to operate without any IT systems for some 10 days, manually tracking all of its containers worldwide till all IT systems could be replaced at the whopping cost of USD 250-300 million.

Cyber-attacks become increasingly stealthy

We are also observing that cyber-attacks are becoming increasingly stealthy. In December 2020, we learnt that one of the most secure and protected network worldwide, that is the strategic digital infrastructure of the United States of America, got hacked through a large-scale and unprecedented cyber-attack. It seems the hack went undetected for some 9 months which shows how difficult it may be to detect stealthy attacks.

For a few years now, we have been seeing a growing number of companies including global players becoming victims of data theft. In most cases, the data breaches have been ongoing for several months or even several years as noted in the case of Marriott, which is till now the biggest data breach in the hospitality sector.

Cyber-attacks are becoming increasingly stealthy

These new types of attacks clearly demonstrate that companies may be under the false impression of being secure simply because their cybersecurity audits or traditional security systems have failed to detect the increasingly stealthy attacks. There are nowadays totally new cybersecurity aspects that need to be covered for a company to properly secure its business operations and its data. Many businesses are lagging behind and there is a need to catch up urgently.

The new face of cybersecurity in the new normal

This is why, today, we at Rogers Capital Technology believe that traditional IT security audits will no longer suffice in properly identifying vulnerabilities and risks for businesses in the new normal.

Cybersecurity can no longer be considered only at micro level, but has to be done on a more macro level, encompassing all aspects from the enterprise, the network, the Internet Infrastructure to the cloud platform, as well as employees, be it in the office, in a Work from Home context, or in a Work from Anywhere environment.

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DTOS

Didier VINEY, Head of BD at DTOS Group:
"I strongly believe that the Mauritius IFC will remain a major player in the region"

For more than 25 years, we have provided the care, advice and guidance to help our clients navigate the regulatory landscape and secure their financial futures.

Created in 1993, DTOS is one of the oldest and largest independent Management Company on the island. What have been the defining moments of this journey ?

The journey over the last 28 years has been exhilarating. DTOS started its activities by being mostly India-centric in its offering, but has over the years adapted its value proposition to the changing needs of its clients. Today, we are very pleased to say that we have a wider offering which caters for the ever-sophisticated requirements and aspirations of our clients and partners, as we now have full capabilities to offer payroll outsourcing services, registrar and transfer agent services, financial and accounting outsourcing services, FATCA/CRS/AML/CFT compliance services and sustainability gap analysis, ... etc. We are also very proud of our international presence in Uganda, Kenya, the UAE and soon Madagascar. This presence is a testimony of our ambition to become the top-of-mind regional corporate service provider in East Africa and in the Middle East. Last but not least, we have embarked in 2020 in a major overhaul of our delivery platforms through the implementation of NAVOne, developed by TrustQuay headquartered in Jersey, and which is considered to be the benchmark in terms of state-of-the-art systems for our industry. This will definitely transform our organisation and position DTOS in the privileged league of modern trust and management companies in the years to come.

Precisely on that note of your international presence, the launching of your Regional Offices in Uganda in 2016 and in Kenya in 2018 came as a surprise to the industry. Can you share with us the rationale behind this presence in East Africa ?

It was in fact motivated by specific requests from our clients who, after setting up their investment holding vehicles rather seamlessly in Mauritius, were facing difficulties in deploying the commercial activities of their local subsidiaries in East Africa. We saw an opportunity in the market by positioning DTOS at the receiving end of the investments of our clients and we are happy to say that this extension of our service offering in East Africa has been well received by our clients and partners. Today, with a team of seven professionals in Uganda and Kenya, we have full capabilities to incorporate Ugandan and Kenyan domestic companies and we are fully geared to offer the same administrative and compliance services to those entities with the same quality of execution that our clients get from the DTOS stable in Mauritius.

And is your presence in Dubai motivated by the same reasoning ?

We have been looking very closely at the Dubai jurisdiction over the last three years as we believed it would widen our value proposition to our clients and partners and we were convinced that it would also complement our existing offering of Mauritius-incorporated legal vehicles. DTOS Middle East DMCC is licensed by the Dubai Multi Commodities Centre to set up legal vehicles for specific global trading activities whilst DTOS Middle East FZ LLC has capabilities to offer the full suite of services in connection with the registration and incorporation of International Business Companies (IBC) through the RAK International Corporate Centre (RAK ICC). Furthermore, we have set-up a special and a dedicated entity in Ras Al Khaimah (RAK) which provides Corporate Directorship services to entities incorporated in other jurisdictions, such as Mauritius, BVI, Seychelles .... etc. This service is already very popular with Mauritius-incorporated or converted Authorised Companies (AC's) having to ensure that their effective place of management is outside of Mauritius as from July 2021.

As the Head of Business Development and Outsourcing for the DTOS Group, how do you see the future of your company and that of the Mauritius International Financial Centre (IFC) in the years to come ?

Since the inception of its business activities, the DTOS Team has been able to constantly re-invent itself and has proved that it could adapt its trajectory to the perpetual changes facing the industry. With such an approach, I believe that the future bodes well for the DTOS Group. Despite the headwinds faced by our country lately, I strongly believe that the Mauritius IFC will remain a major player in the region. Over the years, the island has crafted specific skills and competences in the financial services industry, and has invested heavily in modern infrastructure and systems, hence positioning Mauritius as a well sought-after jurisdiction by the global investment community.

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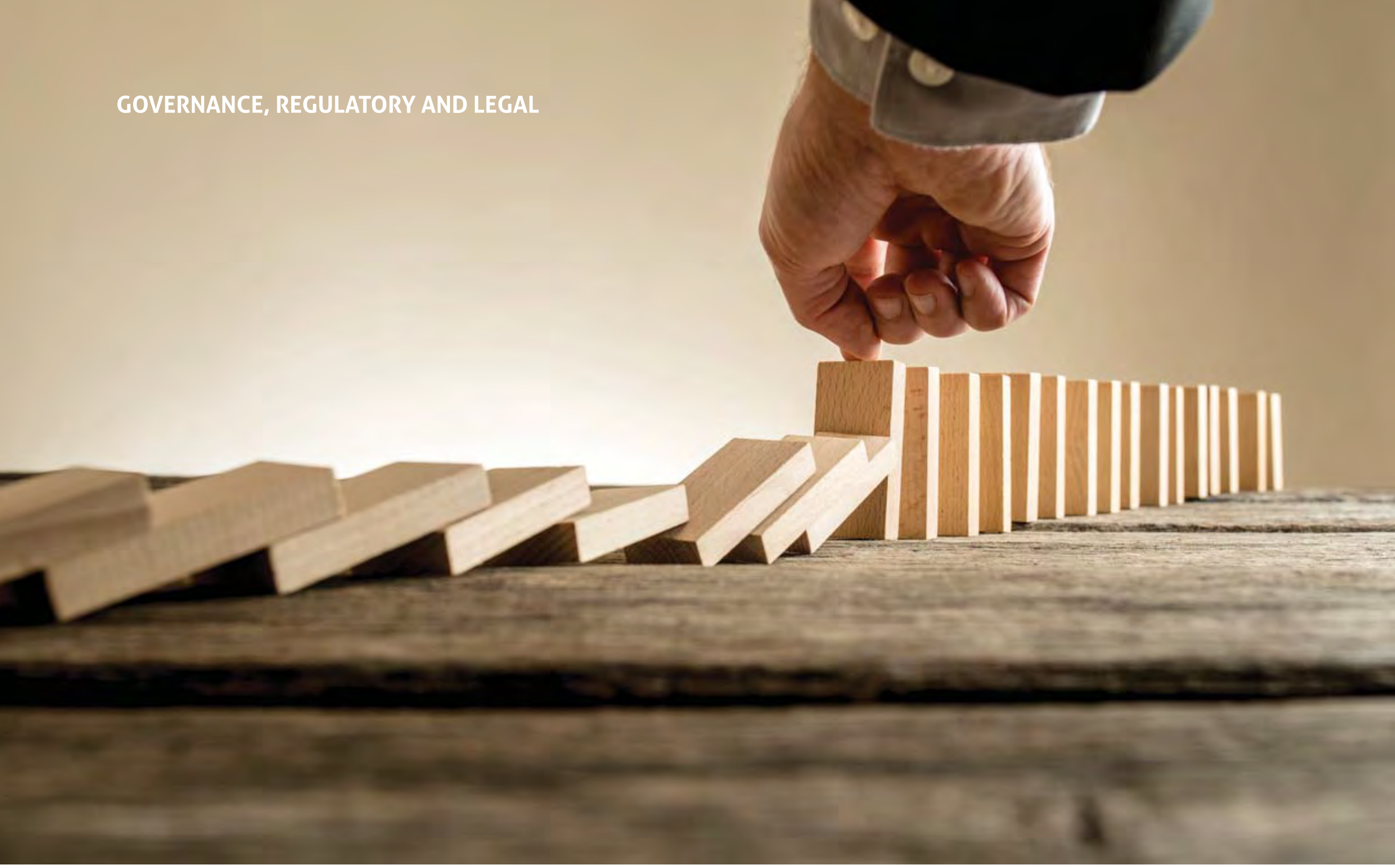

Is your business ready for Risk-Free Rates?

Mervyn Lam Hung, Audit Partner at KPMG Mauritius, explains how the shift from LIBOR to new alternative Risk-Free Rates (RFRs) with effect from 1 January 2022 is set to redraw the landscape for global financial services

The transition to RFRs promises to bring increased transparency and confidence to critical interest rate benchmarks. At the same time, it also represents a profound structural shift for which the global financial services industry needs to ensure that it is fully prepared.

There is no doubting the significance of the shift away from IBORs. These benchmarks have been employed globally in products and services used by retail, corporate and wholesale banks, as well as market players including insurers, pension funds, clearing houses and corporates for over 30 years. The benchmarks are embedded in a very wide range of products, including loans and mortgages, floating rate notes, securitisations, derivatives and deposits.

Moreover, the volumes at stake are enormous. The Financial Stability Board estimated that in 2014 more than US$370 trillion worth of notional contracts used LIBOR, EURIBOR or TIBOR as a reference rate. Some US$190 trillion of these exposures were in IBOR derivatives.

Finally, retail exposure, in certain markets, is significant. IBORs are not only used as a reference rate for financial products but are also important for purposes such as discounting calculations in pensions, tax, insurance and leasing as well as being embedded in finance processes such as remuneration plans and budgeting tools.

The US and UK are now publishing new Risk-Free Rates

Getting ready for radical change

The proposed transition from LIBOR to the new RFRs is, without doubt, a huge undertaking for the industry. After all, the LIBOR's use as a key reference rate has grown so widespread over the past 30 years that it now underpins most of the world's derivative contracts, many cash-based products (loans and floating rate notes) and, in some jurisdictions, retail products such as floating rate mortgages.

The long-dated nature of some contracts – and the scale and volume of LIBOR-based financial contracts – means that it is going to take significant effort and co-ordination to leave LIBOR behind. The extensive interconnectedness of cash and derivative markets also needs to be taken into account.

Putting extensive plans in place

We're already seeing clear strong regulatory and industry support to move LIBOR onto the new RFR benchmarks. In the US and the UK, new RFRs are now being published, with a Euro working group developing new plans for LIBOR EUR and EURIBOR.

The benefits of RFRs are indisputable: benchmarks grounded in actual transactions and underpinned by deeper liquidity which reduces future conduct risks. The move to these new products should increase consumer confidence and make financial markets more robust. However, there is significant work ahead to reach that goal.

The transition in many ways echoes 1999's conversion to the Euro, in that it also impacts the basis of a very large number of wholesale and retail contracts. However, a key difference this time is that this transition is expected to be primarily industry-led. In other words, in order to gain critical momentum, all financial services sectors must be completely engaged and an industry timeline developed, linking up US, UK and European approaches.

It's also vital that customers and end users are supported from a conduct and legal perspective throughout the entire transition period. In particular, legacy contracts having reference to LIBOR and expiring after 1 January 2022 will need to be updated by mutual consent.

Preparing for the final countdown...now

The picture will become clearer during the course of 2021. However, firms cannot afford to wait until that point, but must start preparing and planning now for both new and existing contracts.

The bottom line is that IBORs are firmly entrenched in financial markets at a global level. The interconnected nature of these benchmarks and markets makes it imperative that the transition to alternative RFRs is managed carefully and smoothly for financial stability and confidence.

Firms must act now to plan for this very significant structural shift

Yet, crucial questions remain. Firms must take action now to plan for this very significant structural shift. However, with so many of the details of the transition remaining uncertain, including timing and jurisdictional differences, firms will require a flexible cross-functional programme to adapt to changes in the global landscape.

Securing an advantage in this critical move

In our view, firms that engage with planning at the earliest possible opportunity will secure crucial advantage in making the transition both effective and efficient. It is critical that the end users and customers are at the forefront of the organisation's planning, and that firms don't lose sight of this in the complexities of technical implementation.

While the outlook is uncertain, it is now possible to move forward with careful scenario planning – and to do so without ruling out options and flexibilities that could prove valuable once the details of the transition to the new RFRs come into focus.

By Mervyn Lam Hung, Audit Partner at KPMG Mauritius

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Mauritius: Compliance culture in financial services must evolve to counter challenges

Beelal Baichoo, Compliance Manager at RockFin Compliance Services Ltd, explains how the compliance function in Mauritius' financial services sector has successfully kept pace with international standards over the years, while cautioning that more work is needed to demonstrate the effectiveness of the local AML/CFT regime in view of shortcomings identified by the EU and FATF

Membership of an FATF-Style Regional Body (FSRB), nay, a founding member of the ESAAMLG, existence of regulators like the Financial Services Commission (FSC) and the Bank of Mauritius (BoM), as well as investigatory institutions like the Financial Intelligence Unit (FIU) and the Independent Commission Against Corruption (ICAC) – these are just a few broad strokes of the compliance landscape in the financial services sector of Mauritius.

Clearly then, the jurisdiction does not lack the requisite legal arsenal to foster the required compliance culture for an economy that desires to position itself as an International Financial Centre of global repute.

The background of compliance

What is compliance? Very often, when speaking of this term among relevant professionals, it rings bells like 'KYC', identification documents, utility bills, and such like. The ground reality, however, is about conforming with a requirement, be it of legal or other nature, such as industry norms. Hence, operating in accordance with an industry legislation, for instance, is compliance. Since their inception, regulators have been setting the 'rules of the game' and supervising 'the players' accordingly, to ensure adherence to the 'rulebooks', among others.

The financial services landscape in Mauritius underwent a fundamental transformation in the early 2000s with such major pieces of legislation being enacted as the FSD Act, 2001 (subsequently the FS Act, 2007), and the FIAMLA, 2002. A massive undertaking was also completed by way of the consolidation of different regulators into the FSC – it is noteworthy that the regulators for insurance, securities and 'offshore' businesses existed since well before that. It is also worth noting that the regulator for Banks, namely the BoM, has been a part of the banking landscape since 1967.

The above clearly depicts that compliance, as a culture of doing business, has been present in Mauritius for easily over 20 years. Our financial services sector has then been accustomed to operating in a 'compliant' manner over more than two decades. 'Compliance' thus existed in practice well before the term became popular locally with the creation of the 'Compliance Officer' position in regulated companies such as banks, management companies and the like.

This occurred in parallel with Mauritius joining international initiatives in the early 2000s like the 40+9 recommendations of the Financial Action Task Force (FATF), being subject to 'onsite' inspections by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), and simultaneously embracing global measures in the fight against terrorism, whereby, for instance, the highly controversial PoTA 2002 was promulgated. This is when the term 'Anti Money Laundering and Combating the Financing of Terrorism (AML/CFT)' firmly became a part of local financial vocabulary while 'Compliance' as a professional position started gaining popularity with developments in matters of Money Laundering (ML) and Terrorism Financing (TF).

Nevertheless, as demonstrated above, the history of

By Beelal Baichoo, Compliance Manager, RockFin Compliance Services Ltd

compliance in local financial services is not solely associated with the evolution of AML/CFT issues. Indeed, it is the fruit of efforts undertaken by far-sighted regulators specially appointed to supervise core financial services such as banking, insurance, and securities/investments, far before AML/CFT became popular buzzwords.

The evolution of compliance in financial services

As explained earlier, the AML/CFT framework of Mauritius has evolved largely in keeping with international initiatives, in line with the concept of 'think globally, and act locally'.

To elaborate, the standards set by global bodies – such as the FATF, the ESAAMLG, the United Nations Security Council (UNSC), and the Bank for International Settlements (BIS) – have had a significant impact on local measures adopted by regulators like the FSC and BoM, or even policies at the national level. Key pieces of local AML/CFT legislation such as the BoM Guidance notes on AML/CFT, the FSC Code, and most recently, the FSC AML/CFT Handbook 2020, have all been enacted in furtherance of major global standards adopted in the fight against ML and TF threats.

At a micro/private institution's level, such as banks and other providers of financial services, these measures have been translated in the form of requirements established for onboarding of business relationships or transactions monitoring – hence the usual association of compliance with passport documents, electricity bills, source of funds information, documentary evidence, and the like. The local financial services sector has been highly proactive in adopting AML/CFT measures, and while consumers have a tendency to complain of the number of documents and related information sought from them when opening an account, for instance, all these requests have much deeper roots in transparency measures associated with AML/CFT requirements.

The local compliance framework has been further strengthened with legislative developments such as the Financial Intelligence and Anti-Money Laundering (FIAML) Regulations enacted in 2018. Recent key amendments which have impacted local AML/CFT requirements are the introduction of the Business Risk Assessments and AML/CFT Independent Audit, as well as the extension of the purview of AML/CFT rules to sectors like the accountancy profession, the legal profession, gambling, real estate and jewellery, inter alia.

The present situation

Soberingly enough, the latter developments are the outcome of FATF placing Mauritius on its list of jurisdictions under increased monitoring, following the 5 observations/shortcomings identified from the ESAAMLG's inspection of the jurisdiction.

While the first and foremost view might be that Mauritius adopted a reactive approach to the FATF assessment, the other – and more nuanced – view is that the jurisdiction acted promptly to embrace stringent remedial measures following the FATF's observations of shortcomings in the effectiveness of its AML/CFT regime. This is indeed a positive mark on the country's compliance record, and one that private service providers and political decision makers alike can use to defend the jurisdiction against unfair allegations of a knee-jerk reaction.

In a double whammy of sorts for the jurisdiction, the EU list of High Risk Third Countries was released soon after the FATF assessment, followed more recently by the UK's Money Laundering Regulations (regulation 33(1)(b)) – both having largely the same tacit basis.

These developments unfortunately do not augur well for the reputation of Mauritius, as, even if we can safely assume to be out of the EU's list once the FATF shortcomings are remediated, the same cannot necessarily be argued in the case of the UK. Indeed, following Brexit, the UK is likely to set its own and exclusive criteria for assessing the AML/CFT compliance of a third country, which, despite Mauritius' strong diplomatic relations with the UK, may be expected to pose further challenges for the jurisdiction.

A deeper culture of compliance

There is no doubt that the unfortunate inclusion of Mauritius on the FATF and EU lists makes for a tough path ahead for local stakeholders. Moreover, it is becoming increasingly apparent that the battle to get Mauritius on the 'clean' lists will also have to be fought on the fields of diplomacy and geopolitics. While good governance examples will need to be demonstrated by those at the helm, the perception of the country as a jurisdiction of substance is also important.

Ultimately, the ability of regulators to conduct effective and value-added supervision – beyond a mere tick-box approach – is paramount for the financial services sector to maintain its reputation for ease of doing business, without facing an undue compliance cost which would be detrimental to both the regulated bodies and the overall sector.

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The Global Minimum Tax and its implications for the Mauritian jurisdiction

As the OECD proceeds with the implementation of the Global Minimum Tax framework to level the playing field and ensure that multinationals are not undertaxed, Fazeel Soyfoo, Partner at Andersen, tells us what lies ahead for the jurisdiction, while reiterating that Mauritius remains attractive as an International Financial Centre of substance with strong, non-tax fundamentals

By Fazeel Soyfoo, Partner, Andersen

Since the end of the global financial crisis in the late noughties, the international tax landscape has witnessed some of most significant and radical changes ever seen. From the introduction of FATCA and CRS to the implementation of the OECD's BEPS initiatives, global tax rules have been rewritten forever.

Today, as the world faces another economic crisis following the COVID-19 pandemic, it is no coincidence that a new sweeping proposal in relation to international taxation finds itself on the table, with far-reaching consequences: a global minimum tax.

The clamour for the implementation of a global minimum tax has grown louder following US President Biden's mammoth spending plan that was announced in March this year, following which a minimum tax rate of 21% has been proposed – one which the OECD, and the Irish in particular, will no doubt find too high. But it feels like it is only a matter of time now before political consensus is reached on a global minimum tax rate.

None of this comes as a surprise. The OECD has been working on the so-called Pillar Two for some time now, and part of BEPS 2.0. Pillar Two explores the idea of a global minimum tax to level the playing field of taxation so that multinationals are not undertaxed by reference to the global minimum tax rate.

The Global Minimum Tax Framework

In October last year, the OECD published its Pillar Two Blueprint which sets out in detail various proposals and mechanisms to implement the global minimum tax framework.

It discusses four rules to grant jurisdictions additional taxing rights where income is either subject to low or no taxation or where the counterparty jurisdiction has not exercised its primary taxing rights:

1. An Income Inclusion Rule (IIR), that would trigger an inclusion at the level of the parent company where the income of a controlled foreign entity or branch is taxed at below the effective minimum tax rate;
2. A switch-over rule (SoR), which removes treaty obstacles from the application of the IIR to certain branch structures, and applies where an income tax treaty otherwise obligates a contracting state to use the exemption method;
3. An undertaxed payments rule (UTPR), which acts as a backstop to the IIR, and provides a mechanism to adjust the profits of certain constituent entities that have somehow not been subject to the IIR; and
4. A subject to tax rule (STTR) which seeks to deny treaty benefits to certain deductible intra-group payments made to low or no tax jurisdictions.

The IIR and the UTPR rules shall apply to Multinational Enterprise (MNE) Groups whose annual gross revenue threshold is at least EUR 750m – in line with the Country-by-Country Reporting rules under BEPS Action 13. The implementation of the above will be made through a combination of changes to domestic tax laws and tax treaties.

The rules also exclude certain parent entities including investment and pension funds, governmental entities such as sovereign wealth funds and international and non-profit bodies, which typically benefit from an exclusion or exemption from tax under applicable domestic tax law.

Implications for the Mauritian jurisdiction

As a member of the OECD's Inclusive Framework, Mauritius has been party to the discussions regarding the global minimum tax at the level of the OECD and has been following its evolution very closely. A minimum tax is almost inevitable now – so what are the potential implications for the Mauritian jurisdiction?

The actual minimum tax rate has not been agreed yet. Whilst the US have proposed 21%, there is much support across the OECD for 12.5%, being the Irish tax rate. If the minimum tax rate is set above 15%, which is the current tax rate in Mauritius, MNEs and their constituent entities based in Mauritius will see a top-up in their effective tax rates to the level of the minimum tax rate. However, to the extent that the de minimis threshold of EUR 750m is maintained, the vast majority of companies operating in the Mauritian jurisdiction today will be out of scope of the IIR and the UTPR.

Companies benefiting from the 3% effective tax rate from the Partial Exemption Regime (PER), as well as trading companies which are subject to 3% tax on exports, may also be caught by the minimum tax. The same could apply to companies benefitting from specific tax holidays and exemptions, unless carve-outs are introduced for substance-based exemptions. In addition, certain in-scope companies could find their treaty benefits and overseas tax deductions on intra-group transactions reduced as a result of the introduction of the STTR.

The need for a global minimum tax has been discussed at length by critics, with some arguing that if the existing BEPS Actions are implemented properly, there should not be any need to introduce a minimum tax. Others have raised concerns about the complexity of administering such a tax, and whether it will lead to an increase in disputes between tax authorities and taxpayers.

However, just like in the case of FATCA and CRS, the political will to implement the minimum tax is stronger than ever, which means that the tax will be introduced sooner or later. The Mauritian jurisdiction has proved resilient in the face of various fiscal challenges over the last few years from treaty amendments and terminations to comprehensive changes in the domestic tax regime that ensured compliance with international tax norms and standards. Despite ongoing headwinds, Mauritius remains an attractive and competitive platform for cross-border business and investment.

Based on this evidence, there is no doubt that Mauritius will successfully navigate the challenges that lie ahead. Only a handful of income streams benefit from the PER, and unlike tax havens which have nil or minimal taxation, the headline tax rate of 15% is high enough to give comfort to businesses and investors that the impact of a global minimum tax on the Mauritian jurisdiction should be limited.

> Mauritius remains an attractive platform for cross-border business and investment

A word of caution for stakeholders and policymakers though: The international tax landscape will continue to evolve dynamically in the years to come. As the goalposts keep shifting, it is crucial that decisions regarding the Mauritian fiscal and Global Business regimes are based on the medium to long term – what will happen over the next decade rather than the next couple of years. Otherwise, the jurisdiction risks finding itself in a constant firefighting mode.

Reinforcing Mauritius' reputation as a jurisdiction of substance

Perhaps the argument that Mauritius uses tax to lure business will be now put to bed following the introduction of the global minimum tax, when the real tax havens will be found out. Or perhaps the global minimum tax will help dismiss once and for all the allegations that Mauritius is a tax haven that aids and abets the avoidance of tax by companies.

Time will tell, but in the meantime, Mauritius remains an International Financial Centre of substance with a business-friendly eco-system that is based on strong, non-tax fundamentals. It is well positioned to attract multinational companies currently operating in low or no tax jurisdictions – those which the global minimum tax will hit the hardest.

Special Purpose Fund – a new lifeline

Gary Gowrea, Founder and Director of LTS Tax Services Limited, a boutique tax advisory company, highlights how the Special Purpose Fund Rules recently issued by the Financial Services Commission (FSC) of Mauritius can be expected to go a long way towards enhancing the jurisdiction's appeal as a fund management centre of reckoning

On 6 March 2021, the FSC issued the Financial Services (Special Purpose Fund) Rules 2021 (new Rules) and revoked the 2013 Rules. The new Rules are innovative and provide the jurisdiction an offering that fund managers can benefit from in this especially challenging environment where total expense ratio is under stress.

It must be pointed out that Mauritius has created a positive image of being a tried and tested jurisdiction among fund managers with a modern, flexible, yet accountable legal and regulatory framework. With the changing goalpost of enhancing substance, Mauritius has managed to create a talent pool of professionals (lawyers, bankers, accountants and company secretaries, among others) that meets the requirements of a fast-developing fund industry.

When was the Special Purpose Fund first introduced?

In terms of the background, the Special Purpose Fund (SPF) was initially introduced in 2013 by the FSC through the Financial Services (Special Purpose Fund) Rules 2013 as a tax-exempt fund vehicle. However, the conditions attached to give effect to the offering were quite onerous and it did not attract the interest of fund managers.

In a spirit of collaboration with industry, a working committee was set up to evaluate and determine what would enhance this value proposition. Mauritius Finance played a pivotal role in the process and made several recommendations which have been accepted by the relevant stakeholders in the Financial Services industry and which led to the FSC issuing the new Rules.

What the new rules are all about

Under the new Rules, one can structure a Collective Investment Scheme (CIS) provided it meets certain obligations, which are as follows:

(a) offer its shares, solely by way of private placements, to investors having competency, significant experience, and knowledge of fund investment;

(b) have a maximum of 50 investors and a minimum subscription of USD 100,000 per investor;

(c) at all times be:

  (i) managed by a CIS manager; and

  (ii) administered by a CIS administrator

(d) comply with any such other conditions as may be imposed by the Commission.

In addition, the SPF, the CIS manager, and the CIS administrator shall carry out their core income generating activities in and from Mauritius and shall:

(a) employ, directly or indirectly, an adequate number of suitably qualified persons to conduct such core income generating activities; and

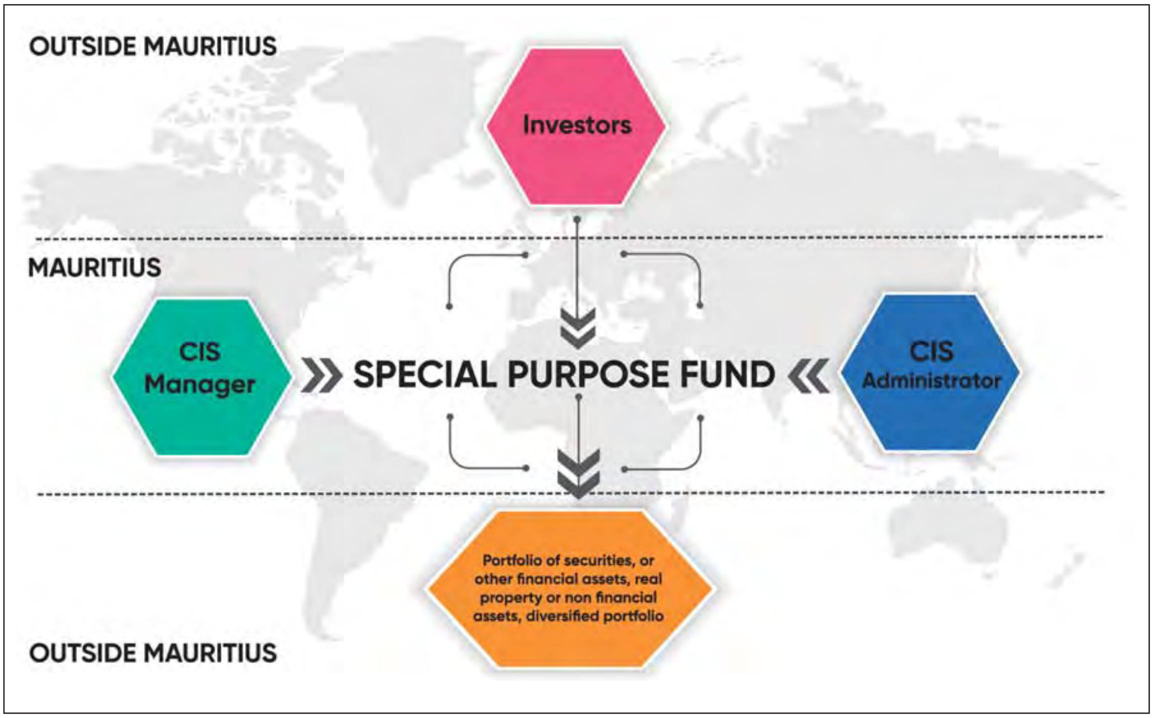
(b) incur a minimum expenditure proportionate to the level of such activities.

Interpreting the substance requirements

As can be seen from the obligations, they are in line with the requirement to set up a CIS in Mauritius, except that the SPF is limited to private placements and is not targeted to the retail fund industry. The minimum investment is in line with the Securities (Collective Investment Schemes and Closed End Funds) Regulations issued by the FSC.

The only added enhancement is that the SPF, the CIS manager and the CIS administrator shall carry out

By Gary Gowrea, Founder and Director of LTS Tax Services Limited and Chairperson of the Tax Committee at Mauritius Finance



Regulatory obligations of a Special Function Fund

their core income generating activities in and from Mauritius. This is achieved by generating employment and incurring expenditure in Mauritius. For the employment requirement itself, it can be met either directly or indirectly, that is the functionaries can provide employees in the structure itself or seek the assistance of management companies that usually have a pool of professionals available to carry out the obligations.

As the SPF is incorporated in Mauritius, one must ensure that control and management is carried out from Mauritius. Then, it will be treated as a tax resident for income tax purposes and will benefit from the fast-expanding tax treaty network that Mauritius has entered into. Under most, if not all tax treaties, the withholding tax rates (WHT) on dividend and interest is nil or lower than source rates. This reduces the tax leakage. Furthermore, as the Mauritius treaties are based on the OECD model, the taxing right on exit of investments is given to the resident state, that is Mauritius, and since there is no capital gains tax in Mauritius, this provides a tax-free exit for the SPF on its investments. In Mauritius, as the SPF is treated as an exempt body under the Income Tax Act, the income that it receives – be it dividend or interest – will not be subject to tax.

For the CIS manager, depending how the carried interest is structured, it will not be taxable if it is of capital nature. If it is of revenue nature, the CIS Manager can benefit from the partial exemption regime (80% of the income will be exempted) provided it meets the substance requirement as set out in the Income Tax Act 1995. In addition, if the CIS manager has more than USD 100m of assets under management, one of its employees can benefit from income tax exemption on its emoluments.

What the new Rules mean for the jurisdiction

Based on the above, the SPF is a valuable proposition for fund managers looking at structuring for both Africa and Asia and is a viable alternative to offerings of a competing base jurisdiction which does not have the benefits of double taxation avoidance agreements.

As the total expense ratio is also under constant review by investors, it is now imperative to find a jurisdiction that provides a competitive cost structure as well as a talent pool to meet the economic substance test.

Mauritius, in this respect, has all the ingredients to achieve cost efficiency and comply with economic substance requirements towards attracting investors as a fund management centre of reckoning.

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From 1 July 2021, all Mauritian entities will be subject to a headline tax rate of 15%, as the deemed credit and GBC2 regimes fall away. Does this mean all Mauritian companies will pay 15% tax? No, but great care needs to be taken to identify the best option to pursue. There are still plenty of options available in terms of tax holidays, the partial exemption regime, and foreign tax credits, but how do you decide which option is best for your company? We have designed an online app to help. This is an easy-to-use smart questionnaire to help you identify whether any opportunities exist to optimise your company's tax position, and which is the best route for you. It takes five minutes to get a detailed recommendation – try our app today!

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Why Mauritius is still relevant as an International Financial Centre

As a jurisdiction which is fully compliant with global tax standards, Caoilfhionn van der Walt, Partner at Regan van Rooy, highlights that despite recent reforms Mauritius still has much to offer on the international stage in terms of its competitive tax regime and leading position as a gateway to Africa

By Caoilfhionn van der Walt, Partner, Regan van Rooy

In recent years, the tax regime of Mauritius has been scrutinised by various oversight bodies, in particular the OECD and the EU, as part of the global response to the OECD Base Erosion and Profit Shifting ("BEPS") initiative. In contrast to many of the other jurisdictions scrutinised, Mauritius has dealt with these challenges well, and as a result is now regarded as fully compliant with best global tax standards. Of course, this has led to significant changes to the very bedrock of the Mauritian tax regime, ushering in a new era with increased substance rules, new controlled foreign company rules, and the abolishment of the GBC2 and deemed credit regimes.

Given these changes, there is now some discussion around potential alternative international financial centres ("IFCs") in the Middle East or around Africa as new 'gateways to Africa'. With this background, and in particular with the end of the GBC2 and deemed credit regimes from 1 July, in tandem with increased effective personal tax rates, some are wondering whether it will lead to a flight of international business from Mauritius.

In this article, we seek to explore why Mauritius is still relevant as an IFC, and well-suited as a gateway to Africa.

Firstly, Mauritius still meets the main criteria for being a hub for African businesses. As anyone who has done business in Africa knows, structuring via the right jurisdiction is not primarily about tax, but rather about asset protection, currency risk, and minimising exchange control complications, with tax being an important nice-to-have. Mauritius, with its strong banking infrastructure, currency flexibility and lack of exchange controls, ticks all of these boxes.

Mauritius would therefore still be favourable as an IFC, but wouldn't businesses still prefer a low tax jurisdiction?

> Mauritius still meets the main criteria for being a hub for African businesses

I would say definitely yes, so we need to better tell the story of the valid BEPS-proof methods available in Mauritius which result in a very attractive effective tax rate; we review the main options below.

Partial Exemption Regime

Firstly, there's the Partial Exemption Regime, which exempts 80% of certain income streams from tax, resulting in a 3% rate on:

- foreign-source dividends;
- interest income;
- profits of a permanent establishment;
- income from collective investment schemes and reinsurance;
- income from ship and aircraft leasing;

- income from international fibre capacity.

This is therefore a straightforward and simple exemption, but of specific application.

Tax Holidays

Secondly, Mauritius has a very broad range of generous tax holidays. For larger groups wanting to hold, support or fund their African operations from a Mauritian holding company, the global headquarter administration or global treasury regimes are attractive. Other key tax holidays, which apply for five or eight years (in addition to the beneficial rates for export activities and freeport manufacturing), include:

- global legal advisory activities;
- overseas family office;
- innovation-driven or high-tech activities related to IP development in Mauritius;
- e-commerce platform activities;
- peer-to-peer lending;
- tertiary education campus;
- manufacture of nutraceutical, pharmaceutical or medical products.

Double taxation relief

Finally, Mauritius has a very generous double taxation relief system – foreign tax credits are not subject to a limitation, and can be pooled, i.e. set off against other taxable foreign income in the same year. Also, where foreign dividends are earned, the Mauritian recipient can claim credit not only in respect of the withholding tax levied, but also on the corporate tax levied on the profits out of which the dividends were paid! This is particularly relevant for Mauritian companies holding African subsidiaries, which are almost always subject to high taxes and thus can often lead to 0% tax payable in Mauritius.

> Mauritius is now globally recognised as a fully tax-compliant jurisdiction

Conclusion

Having successfully navigated a challenging period, Mauritius is now globally recognised as a fully tax-compliant jurisdiction. It has a headline tax rate of 15% but with an opportunity for very attractive effective tax rates, making it increasingly relevant as an IFC in this post-BEPS environment.


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An overview of investor behaviour, capital market theories and market efficiency

Shamin A. Sookia, Managing Director of Perigeum Capital, explores the different capital market theories that have emerged over the years and explains how new market models have evolved in response to changes in investor behaviour, which evidence from behavioural finance proves is not always rational

The chartists comprising technical analysts and fundamentalists track historical financial performance. While technical analysts believe that market movements are more appropriate due to patterns of performance based on political events, economic growth, inflation and interest rates are likely to repeat themselves over time in a cyclical manner, fundamentalists rely more on the historical trends of companies, for instance, dividends, corporate profits and competitive position vis-à-vis the state of the economy.

Portfolio Theory and the Capital Asset Pricing Model (CAPM) assume that stock markets are efficient which implies that returns can be predicted with a certain level of accuracy. However, underperformance of fund managers and periodic stock market crashes are generally legion in the history of capital markets, which poses serious questions regarding the very foundations of such theories underpinning stock exchange and capital markets activity worldwide.

We look at how various capital market models have evolved over the years, and the reasons that have led to non-linear models arising as an alternative to the traditional, linear models that assumed efficient stock markets and rational investor behaviour at all points in time.

The Efficient Market Hypothesis

The EMH states that the price of a share follows a random walk by absorbing new information in an efficient manner.

The three forms of the EMH are the weak form, the semi-strong form and the strong form. The EMH in its strongest form dampens speculative opportunities as it rests on the assumption that current prices fully reflect information including insider information which cannot be tested due to same being outside the public domain.

Critics nowadays claim that the EMH is distorted, leading investors in general to believe in insider information being available to a select and privileged group. They further propound that this is one of the reasons why the market is inefficient and breeds more and more volatility.

Indeed, one of the key criticisms levelled at the EMH is that it is an abstraction of the real world and a model with assumptions which pose a lot of questions. Investors do not always behave rationally, capital markets are not perfectly competitive, and fiscal obstacles and barriers to trade do exist. The EMH is at its most efficient when conditions are stable. This presents minimum opportunities for speculation because the rational expectation is for prices to remain constant, leaving values to be determined by the consensus of a large number of fundamentalist traders.

Key criticisms of the EMH

Critics claim, after the multitude of scandals that have plagued the international financial markets, that the EMH, if it operates at all, would do so in only the weakest of forms. Investors have come to believe in the use of insider information by the privileged few. It is claimed that the EMH takes a linear view of the society. Investors who are risk averse receive information and adjust to it immediately.

In the case of models based upon the EMH such as the CAPM, securities and portfolios do so through their betas. They do not react in a cumulative fashion to a series of events. The linear paradigm is incorporated in the rational investor concept because past information has already been discounted in security prices. The market, therefore, follows a random walk because each day's price movement is unrelated to the previous day's activity.

The behaviour of investors tends to be non-linear in many instances. For instance, it is recognised that investors are not risk averse at all times and rationality is also limited. Investors may not react to information as it is received, and some may not know how to interpret all known information let alone recognise it. All these are non-linear reactions and would question the very foundations of the notion that stock prices follow a random walk.

The case for the EMH is thus invalidated in some respect and all this raises further questions about models of asset pricing based on market efficiency, such as the CAPM.

The Capital Asset Pricing Model

The CAPM to which temporary technical analysts subscribe is based on the view that capital markets are efficient by absorbing all publicly available information regarding a share into its price. The CAPM also assumes that all investors would choose to hold a portfolio which comprises the stock market as a whole.

> Critics nowadays claim that the Efficient Market Hypothesis is distorted

The market portfolio has a beta of one and is efficient, meaning that no other portfolio would give a higher return for the same risk, beta being the measure of riskiness of a given security against the system or the market. Risks, being divided into systematic and unsystematic, are usually tackled by, on the one hand, diversification leading to elimination of unsystematic risk while on the other hand, the CAPM, as an asset pricing model, focuses on the relationship between systematic risk and returns.

By Shamin A. Sookia, Managing Director, Perigeum Capital

Despite its simplifying assumptions, most tests of the CAPM have shown that it works – that is, high betas elicit high returns which can be predicted in the long run. However, such a conclusion may still be invalid. According to a school of thought, stock market indices which are incorporated into a given model's applications are only a partial measure of the true market portfolio. It is argued that every financial asset in the world should be included in a model which is somehow unrealistic and unachievable.

Criticisms of the CAPM have given rise to the development of other models such as the Arbitrage Pricing Theory (APT).

The Arbitrage Pricing Theory

Whereas the CAPM focuses only on the linear relationship between beta factors and returns, the APT is a general model which subdivides systematic risk into smaller components.

In essence, the APT states that the expected return on a stock is directly proportional to its sensitivity to inflation, interest rates, industrial productivity and investor attitude towards risk.

> Investors may not react to information as it is received

Whilst the ATP differs in terms of granular detail from the CAPM, its operation is still a simplification which builds upon Portfolio Theory whose assumptions are questionable, most notably the Efficient Market Hypothesis (EMH).

The Coherent Market Hypothesis

The Coherent Market Hypothesis (CMH) is a model that was developed in the 1990s in response to criticisms levelled at linear models such as the CAPM. The CMH states that the probability density function of equity returns on the market can be determined by a combination of factors including the fundamental bias of the economic environment and the degree of "crowd behaviour" based upon public opinion.

The CMH is a significant development in capital market theory because it provides a non-linear statistical model for assessing market risk and how it changes over time in response to fundamental and technical factors.

Why the market needs an alternative model to explain investor behaviour

Robert J. Shiller, who won the 2013 Nobel Prize in Economics, explained in a paper published in the Journal of Economic Perspectives in 2003 titled 'From Efficient Markets Theory to Behavioral Finance' that "Academic finance has evolved a long way from the days when efficient markets theory was widely considered to be proved beyond doubt."

Indeed, we have to distance ourselves from the presumption that financial markets always work well and that price changes always reflect genuine information. Evidence from behavioural finance helps us to understand, for example, that the recent worldwide stock market boom, and then crash after 2000, had its origins in human foibles and arbitrary feedback relations and must have generated a real and substantial misallocation of resources. Therefore, we need to recognise that the challenge for economists and other experts in the capital market industry is to make this reality become a part and parcel of the models that they are likely to construct for the benefit of investors and all stakeholders at large.

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