

# Mauritius – a profound transformation and the road ahead

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**O**ver the past ten years, the Republic of Mauritius has gone through a profound transformation of its economy. In particular, this is true for its financial sector and more specifically its global business sector. Mauritius has indeed availed itself the various laws and institutions allowing it to become one of the most attractive and best regulated financial centres in the world and generally, one of the best places to do business. This article will review some of these steps and explain what makes Mauritius so attractive, as well as looking at some of the changes which have occurred over recent years.

A secure and internationally compliant environment

Mauritius has never been on any blacklist issued by an international organisation or body. It has always been committed to supporting international norms relating to exchange of information and to ensuring that the jurisdiction is one of sound repute.

Already, before the first such list was published by the Organisation for Economic Co-operation and Development (OECD) in June 2000, Mauritius had committed in writing that it would adhere to and implement the principles issued by the OECD. Subsequently, starting in 2001, Mauritius overhauled its legislation extensively to adapt to the new international order in regulatory matters.

Firstly, the parliament of Mauritius set up new institutions and strengthened the regulatory powers of existing ones. The aim was to better ensure proper regulations and monitoring of activities in the financial sector.

The Financial Services Commission (FSC) was set up in 2001. Its role is to licence and regulate the non-banking financial services sector. The non-bank

financial sector includes institutions involved in insurance and pensions, capital market operations, leasing and credit finance, as well as global business activities.

The banking financial services sector is supervised by the Central Bank, the Bank of Mauritius (BOM). The main purposes of the BOM are to safeguard the internal and external value of the currency of Mauritius and its internal convertibility, and to direct its policy towards achieving monetary conditions conducive to strengthening the economic activity and prosperity of Mauritius. The BOM has been set up as the authority which is responsible for the formulation and execution of monetary policy consistent with stable price conditions.

The Financial Intelligence Unit (FIU) was set up in August 2002. Its role is to monitor all financial transactions in Mauritius and to report any money laundering offences and activities, or transactions related to terrorism to the Independent Commission Against Corruption (ICAC). The ICAC was set up in June 2002, with powers to investigate corruption offences and any matter that may involve the laundering of money or suspicious transactions.

The laws in Mauritius have been updated to assist a novel approach towards regulation, through the use of organisations or associations comprising of industry professionals, which assist the FSC in supervising and regulating the activities of licensees. These organisations shall be known as Self-Regulatory Organisations and will be subject to detailed control by the FSC, including control over their articles of association and shareholding, and their internal and industry rules.

Secondly, the parliament of Mauritius also revised most Acts to bring them in line with new international principles. This

includes the Trust Act, the Financial Services Act, the Insurance Act and the Collective Investment Schemes Act, to name a few.

We will focus on the Companies Act 2001, which extensively overhauled the previous Companies Act. Besides domestic companies, it brought about the concept of global business companies. Any non-resident (corporate or individual) wishing to develop business outside Mauritius, through Mauritian entities, falls into what is known as the global business sector. If a non-resident wishes to develop a regulated activity, as listed under the law (insurance, asset management, brokerage, etc.), and/or avail himself of using Double Tax Agreements (DTAs), he will incorporate a Category 1 global business company (GBL1). This is a resident company, subject to 15% corporate tax, before available tax credits. Any other activity can be carried out through a Category 2 global business company (GBL2), similar to the international business company (IBC) type, which is non-taxable.

Mauritius thus offers a unique proposal of a taxable resident company and of a non-taxable (and non-resident) company. Only the GBL1 can use any of the 35 DTA.

The FSC collects all necessary information on beneficial owners and the activities of GBL1 before issuing such licence. For GBL2, all due diligence information and documents were kept exclusively by the management companies. However, all information regarding registered shareholders (not necessarily beneficial owners) and directors of both types of company must be registered with the Registrar of Companies. This information is not available to the public in the case of GBL1 and GBL2 and can only be consulted by the registered agent of such companies.

In a circular letter dated 3 February 2010, the FSC issued new guidelines with regard to the gathering of information with regard to GBL2. Henceforth, management companies will be required to provide the following information to the FSC:

1. Details on the identity of the beneficial owner of the GBL2, however not the full due diligence documentation.
2. Outline of the business objective (already in force before).
3. Annual financial summary.

These new measures will allow the FSC to promptly exchange information when requested, in accordance with the legal provisions authorising it to do so. Outside these new international treaty obligations, the FSC is subject to the same laws as the management companies regarding confidentiality of information.

It is likely that these new measures will not please those beneficial owners to whom confidentiality is of utmost importance. Besides, these measures will also increase the cost of such GBL2, by the need to hold accounts. It must nevertheless be noted that the new obligation to hold accounts is the only way to assist financial intermediaries in knowing and monitoring the activities of such companies, as they are obliged to do by law.

To those clients who would find these new requirements too burdensome or costly, other jurisdictions, such as the Seychelles, can still be proposed. These do not require any communication of information to the authorities, nor keeping accounts of the IBC, nor filing of financial statements.

However, there is a very large advantage to these new rules. By making GBL2 fully transparent, these zero tax GBL2 should be acceptable to countries which routinely put all "offshore" companies onto their own national blacklists. GBL2 should no longer be on such blacklists, as they are now fully transparent. This would then allow the beneficial owner to operate, in full legality, a company with limited liability and with a zero corporate tax rate.

On the judicial side, it must be noted that the Judicial Committee of the Privy Council of the House of Lords is the court of final appeal for all Mauritius cases. This allows for great legal certainty and coherence of jurisprudence in line with UK precedents. It is a good check, and ensures that the judiciary applies the law as well as possible by maintaining the permanent threat of a revision by the Privy Council.

This is very important, and too little attention is generally given to it by investors. As an example, Singapore, which split from Malaysia in 1965, also

allowed appeals to the Privy Council. But when, in 1988, the Privy Council overturned a decision by the Singapore courts against Mr Jeyaretnam, a member of the opposition, the government of Singapore abolished the right of appeal to the Privy Council for its residents.

This stable and secure legal environment as well as the general pro-business attitude are benefiting Mauritius greatly. Two recent surveys attest to this:

On a macroeconomic level, Mauritius has been doing very well in light of the world crisis. The country ranked 17 of the 183 economies covered by the report *"Doing Business 2010: Reforming through Difficult Times"*. It is the top sub-Saharan economy for the second year in a row in terms of the overall regulatory ease of doing business.

In another survey carried out by Heritage Group, Mauritius' economic freedom score was 76.3 (out of 100), making its economy the 12th freest in the 2010 Index. Its overall score is two points higher than last year, reflecting improvements in freedom from corruption and labour freedom. Mauritius is ranked 1st out of 46 countries in the Sub-Saharan African region, and its overall score is well above the world average. As mentioned in this report, "The Island's institutional advantages are noticeable. A transparent and well-defined investment code and legal system have made the foreign investment climate in Mauritius one of the best in the region."

### Re-engineering the economy

The successive governments have managed to modernise the economy, which not so long ago was overly dependent on sugar exports. Forty years ago, sugar represented 80% of foreign earnings. Today, with an almost similar volume of production and prices, it represents around 3%. The service industry has grown, including tourism, information and communications technology, financial and business services and free trade zones, accounting for over 72% of GDP. In particular, business process outsourcing has created over 10,000 workplaces over the last few years. This is witness, once again, to the attractiveness of Mauritius as a place to do business.

This transformation of the economy has also had another major consequence in Mauritius, namely the return of many educated Mauritians from abroad and the influx of expatriates. Indeed, many "exiled" Mauritians mostly in Western European countries, now want to return, since they can find similar jobs in Mauritius, which was not possible until recently. Likewise, the expansion in foreign investment brings with it the arrival on the island of many expatriates.

These two phenomena, in addition to the passage of many tourists each year, bring about a very cosmopolitan and international way of life in Mauritius.


Governments have also helped this opening to expatriates by making it increasingly easier to obtain and renew work permits in Mauritius. The accession to property has also been eased considerably. While until a few years ago, no foreigner could purchase any real estate in Mauritius (unless by special consent of the prime minister), this has now been changed. After three years of residency, any foreigner has the right to purchase residential property anywhere in Mauritius. Commercial property can be purchased on the day of the investment in any business.

Through the Integrated Resort Scheme, launched in 2002, it is possible to any foreign individual without prior residency or to any domestic company to buy freehold homes in dedicated resort-type residential developments, generally providing hotel service and a golf course. Several projects are currently on the market; the minimum investment must be USD500,000. A purchase of a house in such a project allows the foreigner and his/her close relatives to become resident in Mauritius, benefiting from a highly pleasant lifestyle and a very attractive tax environment, where only locally earned or remitted income is taxed at the single rate of 15%. There are no gift or estate taxes.

### The future

Mauritius has taken all of the necessary steps, and will continue to do so, to remain on any white list. In the words of Hon. Rama Sithanen, vice prime minister and minister of finance, Mauritius has "graduated to the white list of clean, transparent, co-operative and compliant jurisdictions". This will allow anyone wishing to deal with Mauritius or with any global business sector entity to do so in a fully compliant environment and will facilitate any transaction worldwide.

Parliamentary elections are due to be held in 2010. Whether the majority remains in power or whether the opposition comes back to power, it is widely anticipated that the next government will pursue the pro-development economic policies adhered to by the various governments of the past years. These policies have opened Mauritius to the world.



"Why Mauritius Now?"  
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