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Newsletter

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What's Inside

Dear Readers

We are pleased to circulate our October 2019 newsletter edition.

"Mauritius as an IFC has always been at the forefront of innovation while ensuring adherence to international best standards and practices. This recognition by the EU further consolidates our position as a trusted, globally recognised and well regulated financial centre." These are the words of the Chief Executive of the Mauritius Financial Services Commission following the removal of Mauritius on 10 October 2019 from the Annex II list by the Economic and Financial Affairs Council of the EU on the EU list of non-cooperative jurisdictions.

Indeed, Mauritius continue to make considerable effort to collaborate with international organisations and to ensure it remains competitive while adhering to international best standards and practices as can be gathered from this newsletter edition.

Hoping that you will find the information contained therein interesting and useful, we will be pleased to hear any feedback from our readers and thank them for their continued support.

Best wishes

The Editorial Team

Jurisdiction Update – Mauritius compliant with all commitments on tax cooperation with the European Union

On 10 October 2019, the Economic and Financial Affairs Council of the EU has found **Mauritius to be compliant with all commitments on tax cooperation**. It is further reported that **Mauritius has implemented ahead of schedule all necessary reforms to comply with EU tax good governance principles**. Consequently, Mauritius will be removed from Annex II list.

Mauritius adopted on 25 July 2019 its Finance Bill 2019 and on 16 August 2019 additional regulations that amended the legislation applicable to its Freeport zone and Partial Exemption regimes.

The EU Code of Conduct Group at its meeting of 13 September 2019 assessed these amendments and stated that Mauritius had met its commitments to address the deficiencies identified. Substance requirements have been introduced and the issue of lack of anti-abuse rules has been addressed by the introduction of CFC rules broadly aligned with those of EU's anti-tax avoidance directive.

Reflecting on this achievement, the Chief Executive of the Mauritius FSC, highlighted that "*Mauritius as an IFC has always been at the forefront of innovation while ensuring adherence to international best standards and practices. This recognition by the EU further consolidates our position as a trusted, globally recognised and well regulated financial centre. It comes at an opportune time as we look forward to the next level of development in line with our established 10-year plan. We look forward to continuously working in close collaboration with all stakeholders in this process.*"

Background

The EU list contributes to on-going efforts to prevent tax avoidance and promote good governance principles such as tax transparency, fair taxation or international standards against tax base erosion and profit shifting.

The list was established in December 2017 and is contained in annex I of the conclusions adopted by the Council. The conclusions also contain a second annex which includes jurisdictions that have undertaken sufficient commitments to reform their tax policies and whose reforms are being monitored by the Council's code of conduct group on business taxation.

Nine jurisdictions remain on the list of non-cooperative jurisdictions: American Samoa, Belize, Fiji, Guam, Oman, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

The work on the EU list of non-cooperative jurisdictions is a dynamic process. The Council will continue to regularly review and update the list in 2019, whilst it has requested a more stable process as from 2020 (two updates per year).

Jurisdiction Update – Salient features of the Finance (Miscellaneous Provisions) Act 2019

Subsequent to the 2019/2020 National Budget delivered by the Prime Minister and Minister of Finance the following are important features of the legislative amendments that have been passed in the Finance (Miscellaneous Provisions) Act 2019 (the "Finance Act") relevant to the Global Business Sector.

- **Introduction of Controlled Foreign Company (CFC) Rule**

A CFC is defined as a non-resident company in which more than 50 per cent of its total participation rights are held directly or indirectly by a resident company or together with its associated enterprises and includes a permanent establishment of the resident company. The CFC rule has been introduced as an additional anti-tax avoidance provision.

Where a resident company carries on business through a CFC and the Director-General (of the Revenue Authority) considers that the non-distributed income of the CFC arises from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax benefit, that income shall be deemed to form part of the chargeable income of the resident company.

The CFC rule shall not apply to a CFC where in an income year-

(i) accounting profits are not more than EUR 750 000, and non-trading income is not more than EUR 75 000;
(ii) accounting profits amount to less than 10 per cent of its operating costs for the tax period (the operating costs shall not include the cost of goods sold outside the country where the entity is resident for tax purposes and payments to associated enterprises); or
(iii) the tax rate in the country of residence of the controlled foreign company is more than 50 per cent of the tax rate in Mauritius.

- **Extension of the Partial Exemption Regime**

The partial exemption regime of 80 per cent has been extended to cover the following income:

(i) interest derived by a person from money lent through a peer-to peer lending platform;

(ii) income derived by a company from reinsurance and reinsurance brokering activities subject to satisfying conditions as may be prescribed relating to the substance of its activities;

(iii) income derived by a company from leasing and provision of international fibre capacity subject to satisfying conditions as may be prescribed relating to the substance of its activities; and

(iv) income derived by a company from the sale, financing arrangement, asset management of aircraft and its spare parts and aviation advisory services related thereto subject to satisfying conditions as may be prescribed relating to the substance of its activities.

- **Introduction of Real Estate Investment Trust (REIT)** Regime

A REIT, which is defined as a collective investment scheme or a closed-end fund authorised as a REIT by the Financial Services Commission, will not be liable to income tax and Corporate Social Responsibility levy subject to satisfying prescribed conditions. However, every beneficiary or participant to a REIT shall be liable to income tax on his share of the distribution made by the REIT. The first 50,000 rupees of the amount receivable by an individual in an income year from REIT shall be exempt from income tax.

- **Tax Residency in Mauritius**

The place of effective management has been removed as a criterion for determining tax residency of companies. A company incorporated in Mauritius shall be treated as not-resident if it is centrally managed and controlled outside Mauritius.

- **Tax Holidays**

Tax holidays have been introduced on the following income:

(i) Four-year exemption on income derived by a company from bunkering of low sulphur heavy fuel oil;

(ii) Eight-year exemption on income derived by a company from intellectual property assets developed in Mauritius on or after 10 June 2019;

(iii) Five-year exemption on income derived by a company set up on or before 30 June 2025 and issued with an e-commerce certificate by the Economic Development Board;

(iv) Five-year exemption on income derived from licensed operation of a peer-to-peer lending platform provided operation starts before 31 December 2020 and the person satisfies the condition relating to the substance of its activities as specified by the Financial Services Commission; and

(v) Eight-year exemption on income derived by a company set-up on or after 10 June 2019 and engaged in the development of a marina.

International Update – UNCTAD Report Acknowledges Mauritius' Role In Driving Quality Investments Into Africa

Africa is defying the current slowdown in global foreign direct investment and Mauritius, as a rapidly evolving International Finance Centre (IFC), is contributing its part to the roughly $46bn worth of FDI flowing into Africa in 2018, an 11 percent increase compared to 2017. This is evidenced in the United Nations Conference on Trade and Development (UNCTAD) World Investment Report 2019.

The report highlights the important role played by regional hubs like Mauritius in intra–regional investment flow. FDI stock from India, Malaysia, Singapore, South Africa and Thailand to Small Island Developing States (SIDS) is almost all concentrated in Mauritius, as a gateway to other African markets. Mauritius is the third largest destination, accounting for 16 per cent (compared with 12 per cent in 2013) of the United States FDI stock in (SIDS).

The director of UNCTAD's Investment and Enterprise Division and the author of the report, acknowledges the efforts of Mauritius to establish frameworks to attract international investment.

"Mauritius, an island nation, has a strategy to attract outside investment. The government is quite clear. They are shifting their priorities and are building the island as a business hub and offering more business services to East African countries".

Mauritius is cited, in the report, as actively participating in the development of the continent through Special Economic Zones (SEZs) in various African countries. The aim is to create an environment conducive for local operators to tap into business opportunities in these countries and develop business corridors, as well as to enhance the demand for Mauritian products and share Mauritius' experience in zone development. As the first African country to set up an EPZ in the 1970s, Mauritius continues to innovate in this area – most recently introducing a five-year tax holiday for companies collaborating in developing infrastructure in SEZs.

The UNCTAD report follows the recent budget speech by the Mauritian Prime Minister and Minister of Finance and Economic Development in which he committed to expanding the country's economic horizons to deepen economic diversification in partnership with other African countries.

The Prime Minister outlined plans to expand the accessibility of products and services across Africa by establishing a new framework for fund administration and fund management and revamping the existing Special Purpose Fund regime to ease access to new markets. To further diversify the product base of the Mauritius IFC, an umbrella licence for wealth management activities, a scheme for headquartering 'e-commerce' activities and a framework for Green Finance, are being introduced.

Priorities include building on the agreement with Mozambique to set up a regional value chain for Liquefied Natural Gas (LNG); developing a Textile City in Madagascar; developing projects to take advantage of the Industrial and Development Park in Naivasha, Kenya and consolidating ongoing initiatives in SEZs in Senegal, Cote d'Ivoire and Ghana.

Long regarded as an IFC of substance and repute, Mauritius is also a jurisdiction on the move – bringing a new dynamism to the global financial landscape. While tax optimisation may have been a cornerstone of its offering in the past, the Mauritius IFC has diversified as a financial eco-system providing a wide range of products and services of interest to investors in Africa. These include investment banking, global legal advisory services, global headquarters administration, global treasury activities, overseas family offices and asset and fund management schemes.

An efficient banking system, one of Africa's leading and most innovative Stock Exchanges, modern infrastructure, an investment friendly regulatory regime and a skilled and bilingual workforce add to the attractiveness of the jurisdiction to investors.

The Mauritius IFC is rated as fully compliant with the OECD standards on transparency and exchange of information for tax purposes and, in the ESAAMLG Follow Up report, in May 2019, successfully obtained an upgrade of 11 FATF recommendations, demonstrating significant progress in meeting technical compliance.

Considered as a highly compliant jurisdiction according to international best practices, the Mauritius IFC has been ranked first in Africa in the World Bank Doing Business Index, Global Competitiveness Index and Forbes Survey of Best Countries for Business.

International Update – Mauritius a Strategic Partner to the United Nations for 2019-2023

A Strategic Partnership Framework (SPF) Agreement for the period 2019-2023 was signed on 20 August 2019 at the New Treasury Building in Port-louis between the Government of Mauritius and the United Nations (UN). The Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development, the UN Resident Coordinator for Mauritius, and other Ministers, were present.

In his address, the Prime Minister recalled that in 2001-2003 Mauritius had an agreement with the UN in the form of the United Nations Development Assistance Framework which provided support to the country in various areas of concern. With the signing of the SPF agreement, he said, Mauritius has levelled up as a strategic partner to the UN and has become a capable counterpart in the achievement of common objectives.

The SPF, he stated, reiterates reinforced collaboration between Mauritius and the UN adding that it will be a great opportunity for Member States to work in a more proactive and efficient manner. Speaking on various projects facilitated by the UN, the Prime Minister highlighted that the engagement of the UN is unparalleled as regards the implementation of Strategic Development Goals, poverty alleviation and gender empowerment, amongst others.

The UN Resident Coordinator for Mauritius, for her part, stated that the purpose of the partnership is to support the ongoing transformation of the Mauritian economy and society towards high income country status with sustainable job creation and economic growth, and efforts to secure lasting and inclusive prosperity.

According to her, the SPF will favour a strategic approach which is aligned with Government's expectations. The UN, she said, is committed to harness its comparative advantages and work more effectively with country partners for ensuring sustainable development and other priorities.

Strategic Partnership Framework

The Framework is based on six priority areas which include: Transformed businesses; Ageing society, health and labour market reforms; Ocean economy and tourism; Inclusive, quality education and skilling; Social protection and gender equality; and Resilience to climate change. It aligns to Mauritius's National Vision, the three-year Strategic Plan, related Sustainable Development Goals, internationally and regionally agreed commitments and obligations including Human Rights Treaties, the Samoa Pathway and the Africa Agenda 2063.

International Update – Indian Cabinet to soon consider India-Mauritius Free Trade Agreement for Approval

The Indian Cabinet will soon consider the proposed India-Mauritius free trade agreement, aimed at liberalising norms to boost two-way commerce and investments, for approval.

In a free trade agreement, two trading partners cut or eliminate duties on majority of goods besides liberalising norms to promote services trade and boost investments.

The Cabinet would soon take up the agreement for its consideration. After its approval, a date would be finalised for signing of the agreement, after which it will be implemented.

India and Mauritius have been negotiating the pact, officially dubbed as the Comprehensive Economic Cooperation and Partnership Agreement (CECPA), since 2005.

According to experts, India may not get huge benefit in goods sector as Mauritius is a small market, but services sectors such as IT and tourism hold huge potential to enhance economic ties.

Mauritius was the second top source of foreign direct investment (FDI) into India in 2018-19. India received USD 8 billion (about Rs 56,000 crore) foreign inflows from the country.

The bilateral trade between the countries increased marginally to USD 1.2 billion in 2018-19 from USD 1.1 billion in 2017-18.

India exports petroleum products, pharmaceuticals, cereals, cotton and electrical machinery, apparel and clothing accessories to Mauritius.

The island nation's exports to New Delhi include iron and steel, pearls, precious/semi-precious stones and optical, photographic and precision instruments.

(published in Indian newspapers on August 27, 2019)

International Update – EDB strengthens the position and visibility of the Mauritius IFC by joining the World Alliance of International Financial Centres

In a bid to foster cooperation among financial centres and to position Mauritius as an International Financial Centre (IFC) of choice, repute and substance, the Economic Development Board of Mauritius (EDB) has acceded to the Membership of the World Alliance of International Financial Centres (WAIFC) in July 2019.

The WAIFC is the association of global financial jurisdictions, and has as core objectives the promotion of cooperation among financial centres in order to sustain long-term growth, explore cross-fertilization opportunities and facilitate exchanges of best practices. The WAIFC is additionally developing the dialog with public authorities on an international level.

The WAIFC is also project-driven, and the projects currently under way, for the benefit of its Members, the civil society and the global community, are a FinTech Empowerment and Capacity-Building Initiative, a series of publications on the role of IFCs in financing the economy, and a Financial Centre Database.

The WAIFC currently has 13 Members, including Frankfurt Main Finance, Luxembourg for Finance, CityUK, Paris Europlace, Toronto Finance International, Abu Dhabi Global Markets, and Casablanca Finance City.

The EDB, as the statutory body responsible for the promotion of the Mauritius IFC, has also been voted on the Board of Directors of the WAIFC.

The CEO of the EDB underscores that: "*EDB will leverage on its Membership to the WAIFC to advocate on the important role that the Mauritius IFC plays, as a robust, sophisticated, and well-regulated platform, in driving prosperity in developing and emerging countries. This strategic alliance will further strengthen the value that Mauritius adds as an IFC in the global economy.*"

Regional Update – Mauritius becomes Africa Finance Corporation 23rd Member State

Mauritius has become the twenty-third (23rd) member state of Africa Finance Corporation ("AFC" or "the Corporation"), Africa's leading investment grade, infrastructure solutions provider.

Mauritius has continued to register impressive economic progress across the board, including a near fivefold increase in its GDP per capita in the last 30 years. Additionally, it is consistently one of the highest-ranking countries in Africa in the UN's Human Development Index.

As the country strives towards moving from a mid-income to a high-income country, its strategy, titled "Achieving the Second Economic Miracle", places a high emphasis on infrastructure investment, with a particular focus on three of AFC's sectors on investment: power, transport & logistics.

Following its accession to the membership of AFC on 21st August 2019, the Corporation will therefore engage the Mauritian authorities and private sector on how it can best contribute towards developing the country's infrastructure, leveraging AFC's award-winning approach to deliver high quality, sustainable infrastructure projects.

The Mauritius Africa Fund (MAF), SBM Group and AFC are in discussions currently with regards to the establishment of an Africa-focused infrastructure and industrialization fund (the Fund). The Fund, a Mauritius initiative, will seek to collaborate and mobilize funds from key institutional investors for investment in crucial infrastructure projects and facilitate the setting up of special economic zones across the African continent.

The President & CEO of AFC, commented on the announcement: "We are pleased to welcome Mauritius as a Member State of AFC. Through its commitment to promoting private sector-led solutions for its development challenges, Mauritius presents an excellent partnership opportunity for AFC's mandate to develop and finance infrastructure, natural resource and industrial assets for enhanced the productivity and economic growth of African states. We look forward to significantly contributing to Mauritius's growth story."

About AFC – www.africafc.org

AFC, an investment grade multilateral finance institution, was established in 2007 with an equity capital base of US$1 billion, to be the catalyst for private sector-led infrastructure investment across Africa. With a current balance sheet of approximately US$4.5 billion, AFC is the second highest investment grade rated multilateral financial institution in Africa with an A3/P2 (Stable outlook) rating from Moody's Investors Service. AFC successfully raised US$650 million in 2019, US$500 million in 2017 and US$750 million in 2015 through Eurobond issuances. All Eurobond issues were oversubscribed and attracted investors from Asia, Europe and the USA.

International Index Update – The Financial Secrecy Index ranks Mauritius 49th on 112 jurisdictions

The Financial Secrecy Index ranks jurisdictions according to their secrecy and the scale of their offshore financial activities. As a politically neutral ranking, it is a tool for understanding global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight.

The index was launched on January 30, 2018.

2018 Secrecy Ranking

Rank	Jurisdiction	FSI Value	FSI Share	Secrecy Score	Global Scale Weight
1.	Switzerland	1,589.57	5.01%	76	4.50%
2.	USA	1,298.47	4.09%	60	22.30%
3.	Cayman Islands	1,267.68	3.99%	72	3.78%
4.	Hong Kong	1,243.67	3.92%	71	4.16%
5.	Singapore	1,081.98	3.41%	67	4.57%
6.	Luxembourg	975.91	3.07%	58	12.13%
7.	Germany	768.95	2.42%	59	5.16%
8.	Taiwan	743.37	2.34%	76	0.50%
9.	United Arab Emirates (Dubai)	661.14	2.08%	84	0.14%
10.	Guernsey	658.91	2.07%	72	0.52%
11.	Lebanon	644.41	2.03%	72	0.51%
12.	Panama	625.84	1.97%	77	0.26%
13.	Japan	623.91	1.96%	60	2.23%
14.	Netherlands	598.80	1.88%	66	0.90%
15.	Thailand	550.59	1.73%	80	0.12%

Rank	Jurisdiction	FSI Value	FSI Share	Secrecy Score	Global Scale Weight
41.	Italy	254.14	0.80%	49	0.92%
42.	Isle of Man	248.68	0.78%	64	0.09%
43.	Uraine	246.24	0.77%	69	0.04%
44.	Australia	244.35	0.77%	51	0.60%
45.	Norway	242.84	0.76%	52	0.55%
46.	Liechtenstein	240.85	0.76%	78	0.01%
47.	Romania	232.30	0.73%	66	0.05%
48.	Barbados	230.95	0.72%	74	0.01%
49.	**Mauritius**	**223.47**	**0.70%**	**72**	**0.02%**
50.	South Africa	216.43	0.68%	56	0.18%

What is the Financial Secrecy Index?

The 2018 Financial Secrecy Index (FSI) focuses on 112 jurisdictions, including several that are not traditionally considered to be tax havens, such as China, France, Germany and Japan.

Secrecy jurisdictions set up laws and systems which provide legal and financial secrecy to others, elsewhere. The index shows that there is no clear dividing line between "secrecy jurisdictions" (or tax havens) and others. They exist on a wide spectrum.

The FSI measures two things, one qualitative and one quantitative.

The qualitative measure looks at a jurisdiction's laws and regulations, international treaties, and so on, to assess how secretive it is. It gets assigned a **secrecy score**: the higher the score, the more secretive the jurisdiction.

The second, quantitative, measurement attaches a **weighting** to take account of the jurisdiction's size and overall importance the global market for offshore financial services.

What is the significance of this index?

In identifying the most important providers of international financial secrecy, **the Financial Secrecy Index reveals that traditional stereotypes of tax havens are misconceived. The world's most important providers of financial secrecy harbouring looted assets are mostly not small, palm-fringed islands as many suppose, but some of the world's biggest and wealthiest countries. Rich OECD member countries and their satellites are the main recipients of or conduits for these illicit flows**.

For more information on FSI Value, FSI Share Secrecy Score, Global Scale Weight or to see the full index: https://www.financialsecrecyindex.com/en/introduction/fsi-2018-results

CKLBB Product Update – Authorised Companies (AC)

An Authorised Company (AC) is a flexible corporate vehicle commonly used for holding and managing private assets; investment and property holdings; trading and consultancy services; special purpose vehicle; etc. AC's are not resident for tax purposes and do not have access to Mauritius' network of tax treaties.

Authorised Company is required to:

(a) be owned or controlled in majority either by shares or voting rights or the legal or beneficial interest by non-citizen(s) of Mauritius;
(b) conduct business principally outside Mauritius (or with such category of persons as may be specified in FSC Rules); and
(c) have has its central management and control outside Mauritius.
(d) at all times, have a registered agent in Mauritius which shall be a management company.

An AC shall file with the Commission, once in every year, a financial summary (in the form set out in the Ninth Schedule to the Companies Act or such other types of accounts, financial statements or returns as may be specified in FSC Rules).

In addition an Authorised Company is required to file a return of income to the Mauritius Revenue Authority ("MRA") within 6 months of its year end.

An AC is not permitted to conduct any of the following business activity, namely:

- Banking
- Financial services
- Carrying out the business of holding or managing or otherwise dealing with a collective investment fund or scheme as a professional functionary
- Providing of registered office facilities, nominee services, directorship services,
- secretarial services or other services for corporations
- Providing trusteeship services by way of business

How can CKLB help?

CKLB has experienced and dedicated staff who can help clients setting up an AC and/or provide guidance for the appropriate corporate structure, etc. Besides, CKLB can provide management, administration, company secretarial and accounting services to the corporate structure and other ancillary services.

our services

CKLB is independently owned and being of medium size, we pride ourselves in our ability to remaining committed to provide a personal and tailor-made service to clients. We understand well the particular requirements and needs of clients and the key to our successful development has been our commitment to satisfy these needs at high standard. We provide a one-stop quality service with emphasis on local presence and substance. Our varied client base includes HNW / Ultra HNW Individuals, private companies as well as companies listed on major stock exchanges. Our range of services includes:

- our core service, advice to HNWI's and family offices in developing efficient estate planning solutions
- management and family office support structures
- focus on a complete set of fund structuring and administration services
- corporate structuring and advice
- company formation and corporate management
- administration and accounting
- establishment of trusts and provision of trustee services
- back office administration and accounting services
- outsourcing and payroll services
- business administration services, including international trading, licensing and financing
- expatriates occupation and residence permits
- group investment holding and management services

Connecting our clients to international networks to facilitate cross-border business

CKLB interacts with several professional firms and services group, and is member of the International Grouping of Accountants and Lawyers (IGAL), a well-established association boasting 107 member firms located in 41 countries throughout the world, with 170 offices worldwide. IGAL has developed into a leading business network of legal and accounting firms whose members offer superior services related to legal, financial, tax and insolvency matters to companies and individuals with international activities; as well as expert and personal assistance to reduce the obstacles of doing business in a foreign environment and at a distance. IGAL provides CKLBs valued clients with a wide network for assistance in their cross-border businesses through privileged access to experienced professionals and technical expertise in relevant countries. CKLB will be pleased to co-ordinate any assistance you may require in these countries as an extension of our one-stop shop service.

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AVCA African Private Equity and Venture Capital Association

ATMC ASSOCIATION OF TRUST & MANAGEMENT COMPANIES

IGAL A Member of the Intercontinental Grouping of Accountants and Lawyers