

The ultimate complimentary guide to
understanding foreign investment practices
around the world with an Asia-Pacific focus

LexisNexis® Foreign Investment Law Guide 2017-2018

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Jurisdictional Q&As

Jurisdiction: Mauritius

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1. What are the main reasons foreign investors invest in your jurisdiction?

Viewed as a sound model of socio-political stability and economic prosperity, Mauritius has firmly established itself as a unique investment destination, with good fundamentals for growing wealth. The island has built up a strong financial services sector with an efficient regulatory regime, well-established banking institutions and a stock exchange which is one of the leading exchanges in Africa. The latest OECD report confirms once again that Mauritius is largely compliant with global requirements and that it can be compared to countries such as the UK, US, Singapore and Hong Kong.

The Mauritian legal system is a hybrid system which draws legal principles from both French civil law and British common law traditions; its procedures are largely derived from the English system, while its substance is based in the Napoleon Code of 1804. Commercial and contractual law is also based on the Civil Code. The Supreme Court is the highest judicial authority and the country has maintained the right of appeal against final judgments of the Supreme Court to the judicial committee of the Privy Council of England. Mauritius is a member of the International Court of Justice.

Mauritius is also known as an International Arbitration Centre for the region. It embraced this new model of dispute settlement as it offers a tailor-made option for investors which cater for a cheaper and fast out-of-court alternative to settle commercial disputes which would

safeguard confidentiality. The International Arbitration Act offers a simple and ready-made mechanism for the incorporation of arbitration clauses in the constitution of Global Business companies based in Mauritius. In addition, investors can also have the additional comfort of the availability of a pool of international arbitrators for settling disputes. Arbitration is preferred across sectors for the flexible approach over the rigidity of courts.

Mauritius combines the traditional advantages of being an offshore financial centre (no capital gains tax, no withholding tax, no capital duty on issued capital, confidentiality of company information, exchange liberalisation and free repatriation of profits and capital) with the distinct advantages of being a treaty based jurisdiction with a substantial network of double taxation avoidance treaties and investment promotion and protection agreements. The combination of fiscal and non-fiscal advantages together with the diverse product-base have been the key ingredients of the Mauritius success story. Although Mauritius is better known as a gateway for the structuring of investments into India and increasingly Africa, it has also grown to become a leading jurisdiction for private client services in the region. To date, Mauritius has concluded 45 tax treaties.

Other factors making Mauritius an ideal investment hub are its strategic geographical location in the Indian Ocean and favourable time zone (GMT+4), its large multilingual pool of highly capable and skilled workforce, the state-of-the-art infrastructure with high

internet connectivity and modern port and airport facilities.

The key growth sectors in 2016 were real estate activities; financial and insurance activities; manufacturing and wholesale & retail trade; and accommodation and food service activities; information and communication technology. According to the data release report of the Bank of Mauritius for 2016, Foreign Direct Investment (FDI) inflows to the tune of MUR 13.6 bn have been recorded for the four quarters of 2016 as compared to MUR 9.7 bn in 2015. Real estate and financial services remain the most attractive sectors which were the main recipients of FDI. Real Estate activities recorded FDI to the tune of MUR 9.9 bn of which IRS/RES/IHS accounted for MUR 7.9 bn. Direct investment flows of MUR 2.1 bn were recorded in the financial services sector while the manufacturing sector registered MUR 511 million.

2. What foreign investment legislation is in place in your jurisdiction (e.g. Foreign Investment Law or Foreign Investment Catalogue)? Please provide a brief overview of such legislation.

The following foreign investment legislations are in place in Mauritius:

The Investment Promotion Act of 2000 sets out the legal framework and makes provision for the promotion and facilitation of investment in Mauritius including the establishment of the Board of Investment.

The Business Facilitation (Miscellaneous Provisions) Act 2017 provides for amendments to the legislative framework that are necessary for the removal of constraints in relation to permits, licences, authorisations and clearances to further facilitate the doing of business, and for related matters.

The Companies Act of 2001 sets out the legal framework for the setting up and operation of companies in Mauritius.

The Business Registration Act 2002 provides for the registration of persons carrying on

business in Mauritius, registration of business names, allocation of a single business registration number and issue of a business registration card.

3. What restrictions are placed on foreign investment? Does this differ at local levels of government?

In general there are no restrictions on foreign investment in Mauritius, except for foreign ownership in Mauritian sugar companies listed on the stock exchange. Not more than 15% of the voting capital of a sugar company can be held by a foreign investor without written consent from the Financial Services Commission.

Investments made by foreign investors in immovable property (whether freehold or leasehold), or in a company holding freehold or leasehold immovable property in Mauritius, require approval from the Prime Minister's Office under the Non-Citizens (Property Restriction) Act 1975.

4. What are the most common business vehicles for foreign investors? How long do they take to be set up? What are the key requirements for the establishment and operation of these vehicles?

There are various vehicles used to structure a business including:

- (a) Companies;
- (b) Sociétés (derived from French law) often described in Mauritius as civil or
- (c) commercial partnerships;
- (d) Limited partnerships;
- (e) Limited Liability Partnership;
- (f) Trusts; and
- (g) Foundations.

Companies

Companies can be incorporated or registered under the Companies Act 2001 and can be

either private or public. A private company is limited to 25 shareholders and cannot offer shares to the public. Companies can have a limited or unlimited life.

Companies can be:

- (a) Limited by shares. The liability of its members is limited to any amount unpaid on the shares held by the shareholder.
- (b) Limited by guarantee. The liability of its members is limited to the amount that the members undertake to contribute to the assets of the company in the event of it being wound up.
- (c) Limited by shares and by guarantee.
- (d) Unlimited. Where there is no limit on the liability of its shareholders.

A company is the most common form of business vehicle for structuring funds in Mauritius.

The majority of Mauritius-established entities are set up as companies and regulators are familiar with the structure of a company as a business vehicle. A company can be incorporated within 3 working days.

Sociétés

Sociétés are set up under the Civil Code or Commercial Code. The participants' interests are referred to as "parts sociales". Sociétés are fiscally transparent and the liability of the "limited partners" can be limited. A société commerciale must be registered with the Registrar of Companies.

The disadvantage of sociétés are that they are based on a form of French partnership law and French legal concepts and terminology are not understood by all investors.

Limited partnerships

A limited partnership is set up under the Limited Partnerships Act 2011. A limited partnership can elect to have legal personality and must have at least one general partner who is liable for all the debts and obligations of the partnership, and one limited partner who is

liable only up to the maximum amount of its commitment.

A limited partnership can elect to have a separate legal personality. Irrespective of whether a limited partnership has elected legal personality, the partners are still liable for the partnership's debts (general partners have unlimited liability whereas limited partners are liable to the extent of their contribution or other agreement). A limited partnership can be incorporated within 3 working days.

Limited Liability Partnership

Limited liability partnership (LLP) introduced by the Limited Liability Partnerships Act is the new type of partnership vehicle. It combines features of both a company and a limited partnership. It can be used for offering professional or consultancy services and also legal services through the holding of a Global Legal Advisory Services Licence issued by the Financial Services Commission.

An LLP can be set up by two or more partners. The LLP Act also provides for the conversion of an existing entity or unincorporated body to an LLP and the re-domiciliation of foreign LLPs or Mauritian LLPs to and from Mauritius.

There are no restrictions on the residency of the partners and a partner can be an individual, an entity or an unincorporated body.

The LLP is required to appoint a manager resident in Mauritius at all times which should be a local management company if the LLP holds a Category 1 Global Business Licence or a person qualified as a secretary if such is not the case.

The LLP should be registered with the Registrar of LLP. A partnership agreement should be put in place by the partners which will provide for the governance of the LLP and the rights and duties of the partners. The LLP can hold a Category 1 Global Business Licence if it would conduct a major part of its business outside Mauritius. In such case, the LLP Act provides for public records of the LLP not to be available



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Jason Harel

Co-Founding Partner, BLC Robert & Associates

Jason Harel is a co-founding partner of BLC Robert and boasts substantial experience in corporate M&A, workout transactions as well as taxation. He generally practises in the areas of corporate and commercial law, mergers and acquisitions, corporate insolvency, real estate, tax but also advises on litigation matters.

Consistently identified as a 'leading practitioner' in his field by legal directories,

Jason acts for public and private companies, banks, hotels and real estate on a range of acquisitions and other corporate transactions.

Jason sits on a number of boards of directors including JP Morgan Investments Ltd and African Legal Network (ALN) and IBL Ltd. He is also chairman of a family controlled hotel group.

Prior to joining BLC Robert and after completing his pupillage with Grays' Tax Chambers, the leading tax chambers in the UK, Jason was a senior associate within the Trade Finance and Project Finance Group of Denton Wilde Sapte LLP in London from 2000 to 2005. Jason is also a Chartered Accountant and worked for Kingston Smith in their corporate insolvency and restructuring divisions. He is qualified as a Barrister both in England and Wales and the Republic of Mauritius.

The Chambers Global Guide describes Jason as someone who "blends accounting knowledge with an in-depth knowledge of private international law" and client feedback in the Chambers Global Guide describes him as "extremely responsive, applying a western work ethic and with world class experience."

for inspection, and its audited financial statements to be filed with the FSC.

Trusts

Trusts are formed under the Trusts Act 2001. They can be created either as a "purpose" or "beneficiaries" trust. Participants are issued with units in the trust. Trusts are easy to set up because a trust does not require any

registration, incorporation or corporate filings. However, the lack of formality and reporting requirements make a trust less transparent than a company. In addition, trusts do not have corporate personality and trustees are subject to fiduciary duties. A trust can be set up within 1 working day.

Foundations

A foundation is set up under the Foundations Act 2012. A foundation can be set up for any purpose specified in its charter provided its objects are not contrary to the laws of Mauritius. Purposes can be charitable, non-charitable or both and for the benefit of a person or a class of persons to carry out a specified purpose, or both. A foundation can be incorporated within 3 working days.

Global Business Licence

Mauritius offers two types of Global Business Licence:

- a) Category 1 Global Business Licence (GBL 1).
- b) Category 2 Global Business Licence (GBL 2).

Any corporation, whether company, trust, société, limited partnership, limited liability partnership or foundation can apply for a GBL 1. A GBL 1 entity is resident for tax purposes and so can take advantage of double tax treaties with countries that have them with Mauritius. The main characteristic of a GBL 1 is that it must be managed and controlled from Mauritius. A GBL 1 can be incorporated within 3 working days.

A private company can also be licensed as a GBL 2. A GBL 2 is not considered resident for Mauritius tax and is therefore not liable to tax in the country.

A GBL 2 does not benefit from double tax treaties. There are also certain restrictions on the activities permitted by a GBL 2 under the Financial Services Act 2007. A GBL 2 can be incorporated within 5 working days.

5. Under what circumstances are foreign investments subject to government approvals? What is the process and timeline for such approvals?

Investments made by foreign investors in immovable property (whether freehold or leasehold) or in a company holding freehold or leasehold immovable property in Mauritius

requires the authorisation of the Prime Minister's Office (PMO).

A written application must be made to the PMO, detailing the precise location of the property, a site plan showing its extent, the nature of the interest intended to be purchased or otherwise acquired or held, and the reasons for which the application is made. The PMO may, at its entire discretion, request such other information it may require.

It may take 3 to 6 months to obtain approval of the PMO. A certificate of authorisation, setting out any particular conditions that must be respected by the applicant, is issued where the PMO authorises the application.

6. What sectors are heavily regulated or restricted in your jurisdiction, if any? Conversely, what are some of the more open or unrestricted sectors, if any?

There are no restricted sectors as such in Mauritius. However, the banking, non-banking financial services sector, the ICT sector, Freeport activities and tourism activities are heavily regulated. Licences are required prior to start of operation and the following regulatory bodies are in place to supervise the activities:

- a) The Bank of Mauritius for banking services;
- b) The Financial Services Commission (FSC) for the non-bank financial services sector;
- c) The ICTA for the ICT sector and Postal Services in Mauritius;
- d) The Board of Investment for Freeport; and.
- e) The Tourism Authority for the overall operations of tourist enterprises.
- f) Investment is more open and encouraged in the following sectors: Ocean Economy, Renewable Energy, Smart Cities, Education, Healthcare, Life Sciences, Water Management, Fishing, Seafood Processing and Aquaculture, Hospitality and Property Development, Film Industry, Agro-Industry, Manufacturing and Logistics.

7. Are there any restrictions on doing business with certain countries or territories in your jurisdiction? (For example, sanctions.)

There are no restrictions on doing business with certain countries or jurisdictions, except for countries banned by UN sanctions.

However, there are product-specific restrictions on imports from certain countries.

8. What grants or incentives are on offer to foreign investors, if any?

Investment incentives are applied uniformly to both domestic and foreign investors. Mauritius is a low tax jurisdiction and offers a number of other fiscal incentives such as:

- a) Flat corporate and income tax rate of 15%.
- b) 100% foreign ownership is permitted in certain circumstances.
- c) No minimum foreign capital is required.
- d) No tax on dividends.
- e) No capital gains tax.
- f) Free repatriation of profits, dividends and capital.
- g) Accelerated depreciation on the acquisition of plant, machinery and equipment.
- h) Exemption from customs duty on equipment.
- i) Direct cash incentives for employers involved in recruiting and training.
- j) Enhanced investment tax credit for investments in the textile sector.
- k) Extensive network of double tax avoidance treaties.

9. Are there any free trade, special economic or industrial zones in your jurisdiction and what are their requirements?

The Mauritius Freeport (free trade zone) established in 1992 is a customs-free zone for

goods destined for re-export and provides an ideal place for warehousing, processing and distribution of goods.

To operate in the Freeport zones, a company must be registered under the Companies Act 2001 (CA2001). A foreign company registered under CA2001 can also apply for a Freeport certificate. There is no minimum capital for foreigners wishing to invest in a Freeport company. In order to set up a company in the Mauritius Freeport, application for a Freeport certificate should be made to the Board of Investment (BOI), Freeport Unit, by a private Freeport developer or Freeport operator. An annual fee of MUR 20,000 must be paid by the Freeport Operator at time of issue of Freeport certificate to BOI. An annual fee of MUR 200,000 applies in case of Freeport developer.

The government of Mauritius is still in the process of establishing special economic zones that will help expand investment opportunities between the countries in the African region.

There are several industrial zones around the island that cater for manufacturing industries mainly with all the necessary amenities and infrastructure in place.

10. What are the main taxes that could apply to foreign investors in your jurisdiction? (For example, Personal Income Tax, Corporation Tax, Value Added Tax and Social Security Payments.)

Personal Income Tax

Income is taxable when either:

- (a) It was earned in Mauritius (whether the employee was resident in Mauritius or elsewhere).
- (b) It was earned at a time when the employee was resident in Mauritius (whether earned in Mauritius or elsewhere).

Employees are subject to monthly tax under the pay-as-you-earn (PAYE) scheme at the flat rate of 15%. An employee whose emoluments do not exceed MUR23,078 a month is exempt from PAYE. A tax resident employee is entitled to an income exemption threshold, which is deducted from income to arrive at the chargeable amount (if any).

Corporate Taxation

Tax resident business

Income derived from Mauritius or elsewhere by business vehicles resident in Mauritius are subject to tax in Mauritius, subject to certain exceptions.

Non-tax resident business

Income derived from Mauritius by business vehicles that are not resident in Mauritius will be taxed in Mauritius, subject to the business vehicle qualifying for relief under a double tax treaty between Mauritius and the country where the business vehicle is resident.

A GBL 1 company is taxed at a flat corporate rate of 15% on business profits, although foreign tax credits will be allowed to the full extent on the Mauritius tax for taxes paid at source (where this can be evidenced). Alternatively, a system of foreign tax credits of 80% effectively reduces the income tax rate to 3% on the qualifying income of the company. The tax payable in Mauritius can be less than 3% (and can be reduced to nil), where the actual foreign taxes are more than 12%.

A GBL 2 company is not resident in Mauritius for the purposes of qualifying for relief under a double tax treaty except for exchange of information purposes, if the treaty provides for it. It cannot benefit from relief under the networks of Double Tax Avoidance Agreements (DTAAs) to which Mauritius is a party. A GBL 1 company is a resident in Mauritius for tax purposes, but a GBL 2 company is an exempt body and is therefore not liable to pay tax in Mauritius.

Withholding Tax

Dividends – there is no withholding tax on dividends

Interest – A 15% withholding tax generally applies to interest paid by any person, other than a bank or non-bank deposit-taking institution, to any person other than a company resident in Mauritius, unless specifically exempted.

Royalties – The general rate of withholding tax on royalties paid to non-residents is 15%, although specified non-residents are exempted. A 10% withholding tax generally applies to royalties paid to residents.

Value Added Tax (VAT)

VAT applies to goods and services. It is chargeable on taxable supplies of goods and services made in Mauritius by taxable persons in the course any business. VAT is also payable on importation of goods into Mauritius, irrespective of whether the importer is taxable or not. The rate of VAT is 15% on a taxable supply or 0% on a zero-rated supply. Goods and services which are exported and certain goods and services which are supplied on the local market are zero rated supplies.

Social Security Payment

Employees' contributions are set out in the National Pensions Act 1976 and the National Savings Fund Act 1995 as follows:

- (a) National pensions fund: 3%.
- (b) National savings fund: 1%.

Contributions to the funds must be calculated on the employee's basic wage (not exceeding MUR16,655 a month).

From 2016, employees must file an annual tax return by 30 September for the employment period 1 July to 30 June.

Employers

Employers' contributions are set out in the National Pensions Act 1976 and the National Savings Fund Act 1995 as follows:



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Fayaz Hajee Abdoula
Senior Associate, BLC Robert & Associates

Fayaz Hajee Abdoula is a Senior Associate at BLC Robert with Mergers and Acquisitions, Company Law and Employment Law as his area of expertise. Since joining BLC Robert in 2009, he has obtained a wide range of experience in Mergers and Acquisitions transactions. Fayaz has advised on some major transactions which would include but not limited to, representing a financial conglomerate in the potential purchase of a Mauritius real estate fund; a purchase bid in respect

of the sale of a majority stakeholder of a company listed on the Stock Exchange of Mauritius and counselled various sophisticated and expert investors in the acquisition of companies incorporated in Mauritius. He has also advised Courts Asia, a company listed on the Singapore Stock Exchange, in respect of the proposed acquisition of the one of biggest furniture business in Mauritius. Currently Fayaz is also the advisor to General Electric, a multinational conglomerate corporate, RIU Hotel and Resort Group, one of the renowned names in the hotel industry.

In terms of Employment law, he is one of the lead Employment Lawyer in the firm advising several high profile banks, hotels and other large players in the local industry. Fayaz has also advised on cross border employment matters, offshore companies employing staffs in Mauritius and advises on all aspects of employment laws to our foreign clients in Mergers and Acquisitions transactions.

Fayaz joined BLC Robert as a pupil under Mr. Iqbal Rajahbalee, Senior Counsel, and was thereafter admitted to the Bar of Mauritius in January 2010. Fayaz read law at the University of Manchester (United Kingdom) and was called to the Bar of England and Wales at the Honourable Society of Lincoln Inns.

- (a) National pensions fund: 6%.
- (b) National savings fund: 2.5%.
- (c) Monthly training levy of 1.5% of basic wage of every employee.

Employers must file a return with details of employees by 15 August.

11. What are some of the employment regulations in your jurisdiction that foreign investors should be aware of? Is it possible to secure residency permits or work visas for foreign nationals under investment?

The main piece of legislation governing employment law in Mauritius is the Employment

Rights Act 2008 which covers: employment contracts; minimum age for employment; hours of work; remuneration; and other basic terms and conditions of employment.

Other legislation includes:

- (a) the Employment Relations Act 2008 which governs trade unions, fundamental rights of workers and employers, collective bargaining, dispute resolution and related matters;
- (b) the Sex Discrimination Act 2002 which prohibits discrimination on the ground of sex in various circumstances;
- (c) the Investment Promotion Act 2000 which provides for the issue of occupation permits to foreign professionals;
- (d) Remuneration Orders issued by the Ministry of Labour, Industrial Relations and Employment. Sets out the additional rules of employment in industries operating with specific needs;
- (e) the Additional Remuneration Act 2016 which is amended annually and provides for payment of additional remuneration to employees of the private sector to compensate for the rise in the cost of living/inflation;
- (f) the Private Pensions Schemes Act 2012 which provides a regulatory framework for the operation of private pensions in Mauritius;
- (g) the End of Year Gratuity Act 2001 which provides for payment of an end of year gratuity to employees of the private sector;
- (h) the Non-citizens (Employment Restriction) Act 1975 which provides work permits for expatriates;
- (i) the Occupational Safety and Health Act 2005 which governs safety, health and welfare of employees at work; and
- (j) the Recruitment of Workers Act 1993 which governs private recruitment agencies.

An application for occupation permit can be made by foreign professionals or investors. An occupation permit is a combined work and residence permit that allows a foreign professional to reside and work in Mauritius. Applications for an occupation permit can be submitted in any the following three categories:

Investor

The business activity should generate a turnover exceeding MUR 4 million annually with an initial investment of USD 100,000 per investor or its equivalent in freely convertible foreign currency.

In case there is more than one investor, the turnover criteria should apply in respect of each applicant (i.e. MUR 8 million for two applicants, MUR 12 million for three applicants, and so on);

Professional

Basic salary should exceed MUR 60,000 monthly. However, the basic salary for the category of Professional in the ICT Sector should exceed MUR 30, 000 per month. For all applications submitted prior to 31 October 2015, the salary threshold of MUR 45,000 still applies;

Self Employed

Income from the business activity should exceed MUR 600,000 annually for the first two years of activity with an initial investment of USD 35,000 or its equivalent in freely convertible foreign currency. The annual income for the third year must exceed MUR 1,200,000.

The process takes approximately ten working days. When approved, the foreign professional is registered with the Board of Investment and the Passport and Immigration Office issues the occupation permit.



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Javed Niamut
Associate, BLC Robert & Associates

Javed Niamut is a barrister at BLC Robert and is mainly involved in corporate, tax and employment law matters.

Since joining BLC Robert in March 2012, he has acted for various international clients on corporate restructurings, joint ventures and mergers and acquisitions. He has recently acted for one of the most established independent private equity firms in Asia in connection with the acquisition of a leading provider of company formations, trust, corporate and fund administration services. He has also

advised a subsidiary of the World's largest paper company by volume in corporate law matters.

He is well versed in domestic and international aspects of taxation. He regularly advises in the development of tax optimisation structures and the application of tax treaties and investment promotion and protection agreements. As part of his assignments, he has advised a multinational conglomerate in developing a tax optimisation structure for its Africa operations.

Javed has also been involved in a number of employment law related matters. He regularly advises on employment contracts, staff policy handbooks, labour relations, employee transfer, immigration and work permits, issues of recruitment and termination and the implementation and structuring of employee share ownership schemes and options plans. He has recently advised one of the top ten largest pharmaceutical companies in the world on the restructuring of its workforce in Mauritius.

Javed read law at Oxford Brookes University and completed the Bar Vocational Course at the University of the West of England. He was called to the Bar of England & Wales in 2011 at the Honourable society of the Middle Temple. He is also a member of the Bar Association in Mauritius since January 2013.

12. Can foreign investors acquire real property and land in your jurisdiction? Are there any restrictions or limitations?

The holding of interests in real property (whether freehold or leasehold) by foreign entities requires the authorisation of the Prime Minister's Office (PMO).

Certain statutory exceptions to the requirement of obtaining the authorisation of the PMO include:

- (a) Holding immovable property for commercial purposes under a lease agreement not exceeding 20 years; and/or

(b) Purchasing luxury villas, apartments, penthouses or other similar properties under the Invest Hotel Scheme, Property Development Scheme and Smart City Scheme.

13. Are there any processes in your jurisdiction that can block foreign investment under specific circumstances?

There are no such processes in Mauritius that can block foreign investment.

14. What foreign currency or exchange controls should foreign investors be aware of?

There is no exchange control in Mauritius. No approval is required for the repatriation of profits, dividends, or capital gains earned by a foreign investor in Mauritius.

15. Are there any restrictions, approval requirements or potential penalties if a foreign investor withdraws their investment in your jurisdiction?

There are no such restrictions, approval requirements or potential penalties if a foreign investor withdraws his investment from Mauritius

16. What contract enforcement and investor protection mechanisms are in place in your jurisdiction, if any?

Contract enforcement can be done either through the court or through arbitration. Effective mechanisms are in place for arbitration in Mauritius.

Mauritius has entered into numerous Investment Promotion and Protection Agreements (“IPPs”). IPPAs promote and protect the interests of investors from one country in the territory of the country where the investment is being made.

17. Does your jurisdiction have any bilateral or multilateral investment protection treaties with Asia-Pacific jurisdictions that are commonly used for investing into the country?

Mauritius has signed Investment Promotion and Protection Agreements with the following Asia Pacific countries: China, India, Indonesia, Pakistan, Republic of Korea and Singapore.

18. What intellectual property rights protections are available in your jurisdiction to foreign investors?

Intellectual property is protected under two branches – industrial property and copyright.

The Industrial Property Office’s (IPO) responsibilities include handling and administration of applications for the protection of patents, industrial designs and trademarks. Applications are made using prescribed forms and paying statutory fees. The duration of protection for: (a) patents is 20 years; (b) industrial designs is 5 years; and (c) trademarks is 10 years.

An Industrial Property Tribunal (IPT) exists to, inter alia, hear appeals of persons aggrieved by certain IPO decisions and confirm, amend or cancel such decisions. The IPT is also empowered to invalidate decisions as to whether patents should have been granted, or industrial designs or trademarks been registered.

The Copyright Act 2014 (CA 2014) provides for effective protection of copyright and related rights. An author who registers his artistic, literary or scientific work with the Rights Management Society (RMS) secures economic rights (reproduction, adaptation, distribution) and moral rights (claiming authorship, objecting to distortion or alteration) that subsist in the copyright material, and reinforces the claim of authorship by depositing such material with the RMS. The RMS may represent and defend the interests of its members in Mauritius.

19. Are there any environmental policies and regulations that (potential) foreign investors should be aware of prior to or throughout the investment process in your jurisdiction?

Prior to undertaking certain development activities in Mauritius, foreign investors are required to carry out a Preliminary Environment Report (PER) or an Environment Impact Assessment (EIA) on such project and obtain a PER approval or EIA licence (as applicable). Projects of a lesser scale and which by their very nature, are not highly polluting require a PER while a full EIA is required where significant adverse environmental impacts will likely result from development of the project. The Environment Protection Act 2002 provides for a list of activities which require a PER or an EIA. A PER or an EIA may be required for any non- listed activity, which, by reason of its nature, scope, scale and sensitive location could have an impact on the environment.

Some of the relevant regulations and guidelines are:

The Environment Protection (Applications for PER Approval and EIA Licence) (Processing Fees) Regulations 2011.

A proponent’s guide to Environmental Impact Assessment (EIA)

A Proponent’s guide to preliminary Environmental Report (PER) (Yvette note this hyperlink too)

20. Are there any government agencies or non-governmental bodies that (potential) foreign investors can turn to for more information on investment in your jurisdiction?

Government agencies

The Board of Investment (BOI) is the government agency responsible for promoting investment in Mauritius, and it also helps guide investors through legal and regulatory

requirements. BOI acts as the single interface with all investors and liaises with relevant authorities for the granting of work permits, residence permits and other relevant permits required by the investor to operate in Mauritius. www.investmauritius.com

Financial Services Promotion Agency (FSPA) has the mandate to promote Mauritius as a premier financial centre and as a platform for structuring cross border investments in key markets. www.mauritiushfc.mu

Non-governmental bodies

Mauritius Chamber of Commerce and Industry (MCCI) is a not-for-profit private sector institution in Mauritius which provides a wide array of services through dedicated resources across the business spectrum such as trade facilitation, economic analysis, trade negotiations, advocacy, advisory services, networking, arbitration and market intelligence. www.mcci.org

COMESA Regional Investment Agency aims to liberalise and promote trade facilitation in the region. www.comesaria.org

The Mauritius Africa Fund was set up as a public company limited by shares and will encourage domestic enterprises to invest in Africa. www.mauritiusafricafund.com

21. Have there been any recent proposals for reforms or regulatory changes that will impact foreign investment in your jurisdiction?

The Business Facilitation (Miscellaneous Provisions) Act 2017 is introducing the following key amendments:

Amendments to existing legislations such as the Companies Act, the Local Government Act and the Business Registration Act will be made in order to facilitate the setting-up of a business within less than one working day and registration of businesses and incorporation of companies will be made within two hours.

The Investment Promotion Act is being amended to implement a national electronic licensing platform which will provide a single point of entry for application, processing and determination for permits and licenses. This project also includes the setting up of a centralized Electronic Registry of licenses which will hold and provide critical data on licensing requirements.

The following are some of the measures proposed on 8 June 2017 during the 2017- 2018 budget speech by the Government of Mauritius:

- a) The creation of an Economic Development Board (EDB) integrating BOI, Enterprise Mauritius, the Financial Services Promotion Agency and the Mauritius Africa Fund to ensure greater coherence and effectiveness in implementing policies and actions.
- b) The EDB will collaborate in the creation of a Regional Fintech Association to create links with other international institutions such as Innovate Finance London and Fintech Circle.
- c) An Innovator Occupation Permit will be introduced for innovative start-ups with a minimum operational expenditure of 20% for Research and Development purposes.
- d) High tech machines and equipment brought by investors from abroad will be considered as part of the minimum investment of USD 100,000 required to obtain an Occupation Permit.
- e) An 8-year income tax holiday on the income derived from the totality of Intellectual Property Assets will be given for new companies involved in innovation-driven activities.
- f) 8-year income tax holiday will be given for new companies engaged in the manufacturing of pharmaceutical products, medical devices and high-tech products.
- g) The introduction of an Innovation Box Regime for Intellectual Property assets

(IP Box). The preferential tax regime of the IP box will complement the Regulatory Sandbox License.

- h) GBC1 will be required to fulfil at least two (currently one) of the six FSC criteria to demonstrate substance.

22. Are there any other features regarding foreign investment in your jurisdiction or in Asia that you wish to highlight?

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Doing business in Mauritius is both easy and smooth and complies with best practices in terms of transparency, good governance and ethics. Mauritius is top ranked in Africa and 49th globally in the World Bank's Ease of Doing Business 2016 Report. In 2016, Mauritius again topped the list of African Countries in the Mo Ibrahim Index of Corporate Governance. The country adopted internationally accepted anti-money laundering and terrorist financing legislations and is listed in the OECD white list of offshore jurisdiction.

Mauritius has the right scheme and framework to position itself as the key Financial Centre, Trading hub and Doing Business Platform. This platform rests on two fundamental pillars namely: a credible and substantive international financial centre and a good regional logistics platform.

The open and business friendly economy of Mauritius combined with its modern infrastructures makes it an attractive place for investors. A new business can be set up and be operational within 3 working days. The country's Investment regulations are in line with the WTO's agreement on Trade Related Investment Measures.

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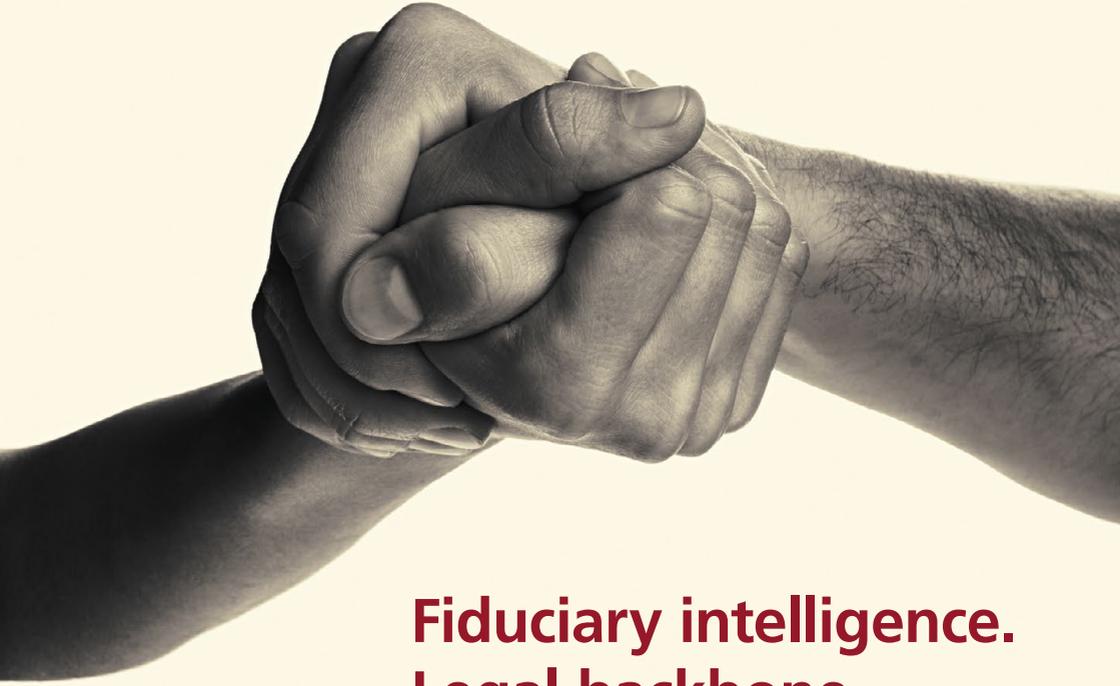
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