MAURITIUS – GATEWAY TO AFRICA

Authors
Sattar Abdoula
Mariam Rajabally

Tags
Af.C.F.T.A.
C.I.G.A.
Collective Investment Scheme
I.F.C.
Mauritius
V.A.I.T.O.S.
Virtual Assets

Sattar Abdoula heads the practice development of Grant Thornton Mauritius. He advises on local and international tax structures.

Mariam Rajabally is partner at Grant Thornton Mauritius where she advises on international financial services and tax matters.

INTRODUCTION

Rightly called the Pearl of the Indian Ocean, Mauritius is much more than a popular tourist destination. With an area of 2,040 square kilometers and a population of just over 1.3 million, the tiny island is situated off the southeast coast of Africa next to Madagascar. It pulls more than its weight when it comes to financial services. Mauritius positioned itself for cross-border activities in the early 1990's, and since then, it has been recognized as a reputable International Financial Center ("I.F.C.'') and the preferred gateway for investments into (and out of) Africa and Asia (mainly India).

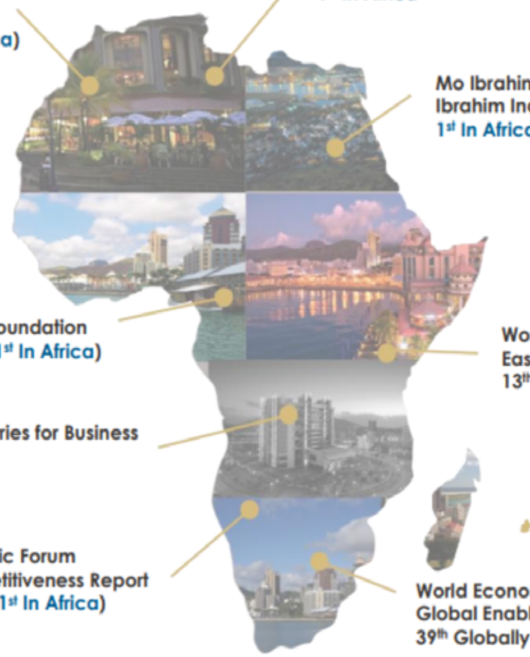
MAURITIUS AT A GLANCE

The 2022 World Bank statistics placed Mauritius as the country with the second highest per capita G.D.P. in Africa, ahead of its better-known neighbor, South Africa. The country offers a high standard of living in a stable social, political, and economic environment.

Mauritius is a multicultural and multiethnic hotchpot with a diverse population of Indian, African, Chinese, and European origins. The country has long served as a cultural bridge between Asia and Africa. This cultural connectivity can be advantageous for businesses looking to understand and navigate the nuances of different markets. Although the official language is English, French remains widely used, and both languages are used for business purposes.

The country is a multiparty parliamentary democracy with a well-regulated financial services sector and an effective, independent legal system having the Judicial Committee of the Privy Council in the U.K. as its highest court of appeal. One attractive characteristic of the legal system is that it remains a hybrid system with features of both the English Common Law and the French Napoleonic Code Civil.

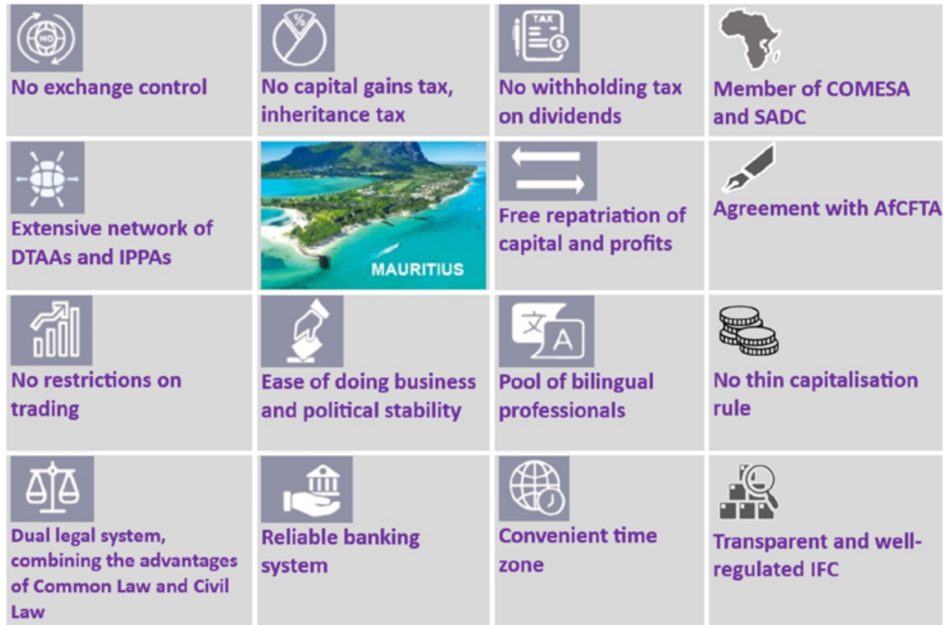
Over the years, Mauritius has won a number of international accolades reinforcing its reputation as an I.F.C.



WHY MAURITIUS?

Mauritius offers all the advantages of an established I.F.C.

- Mauritius is one of the most stable and attractive environments for doing business in Africa thanks to its political and economic regime, tax rules, robust legal and judicial framework, and foreign currency availability with free capital flows.
- Mauritius has a highly literate, comparatively low-cost, and multilingual workforce. The country has a skilled workforce of around 15,000 professionals servicing the I.F.C. including accountants, fund administrators, lawyers, and bankers to deal with modern international clients' exigencies. The level of service is high and the culture is hard working, fast, and efficient.
- The island offers excellent infrastructure. Mauritius actively encourages foreign talent, know-how, and investment into the country. The infrastructure in Mauritius is on par with international standards.
- The banking system in Mauritius comprises of 19 banks with over $43 billion of assets on a cumulative basis. The banking industry is at the cutting edge of innovations and international regulatory developments.
- Favorable regulatory environment. Mauritius has developed an internationally compliant regulatory framework that encourages foreign investment.



- Foreign companies enjoy free repatriation of profits, which positions Mauritius as a welcoming and investor-friendly jurisdiction.
- Strategic time zone (G.M.T. +4), which enables trading and business to be conducted with Africa, Europe, Asia, and the U.S. on the same business day.

THE MAURITIUS I.F.C.

Mauritius, as an I.F.C., offers a range of products and structures which have helped develop a conducive ecosystem for promoting cross-border investment and solutions to high net worth individuals in positioning private wealth.

The Global Business Company ("G.B.C.") is the vehicle of choice for holding foreign assets. About 15,000 G.B.C.'s are in existence as of the date of this article. In addition, over 900 global funds are based in Mauritius. The legal framework for trusts and foundations also makes Mauritius a favored jurisdiction for succession, wealth planning, and philanthropic solutions for individuals and families.

The I.F.C. sector represents more than 13% of G.D.P., arising from

- the export of goods and services;
- cross-border investment and corporate banking;
- recent emphasis on tapping into renewable energy and E.S.G. projects built around U.N. Sustainable Development Goals by African countries;
- private banking and wealth management;
- business and financial rules that promote capital raises and public offerings;

- frameworks for FinTech, Virtual Assets, and Initial Token Offering Services;
- emerging products, such as peer-to-peer lending, crowdfunding, and artificial intelligence-enabled services;
- mediation and arbitration rules for non-judicial settlement of legal disputes; and
- global headquarters administration.

NEW DEVELOPMENTS

The recent legislation around virtual assets and initial token offerings ("V.A.I.T.O.S.") makes Mauritius one of the first countries in Africa to provide a regulatory framework for Virtual Assets Service Providers ("V.A.S.P."), removing the lack of transparency and certainty around these activities. The regulatory framework also paves the way for V.A.S.P. to access formal banking services enabling growth and expansion for those operators.

The V.A.I.T.O.S. Act provides for several subcategories of licenses:

- Licenses allowing Virtual Asset Broker-Dealers to carry out activities such as exchanges between virtual assets ("V.A.'s") and fiat currencies or exchange between one or more forms of V.A.'s
- Virtual Asset Wallet Services licenses pertain to the transfer of V.A.'s
- Virtual Asset Custodian licensees are responsible for the safekeeping of V.A.'s or instruments enabling control over V.A.'s, administration of V.A.'s or instruments enabling control over V.A.'s
- Virtual Asset Advisory Services licenses covering the participation in, and provision of, financial services related to an issuer's offer or sale of V.A.'s
- Virtual Asset Market Place licenses that allow for the setting up of a Virtual Asset Exchange as a centralized or decentralized virtual platform, whether in Mauritius or in another jurisdiction, thereby facilitating the exchange of V.A.'s for fiat currency or other V.A.'s on behalf of third parties for a fee, a commission, a spread, or other financial benefit

This new legislation coupled with the regulatory sandbox regime available in Mauritius has created a conducive environment for V.A.S.P. and other new technology providers to collaborate and develop innovative solutions. This is proving especially useful for Africa where V.A.S.P. are playing a critical role across all sectors of the continent's economies.

GATEWAY TO AFRICA

Mauritius is the jurisdiction of choice for firms wanting to expand their business into Africa. Mauritius has long-standing relationships with key African and international bodies, including the Southern African Development Community ("S.A.D.C.") and the Common Market for Eastern and Southern Africa ("C.O.M.E.S.A."), the World Trade Organization, and the Commonwealth of Nations. It has also established a network of agreements, comprising 24 signed Investment Promotion and Protection Agreement ("I.P.P.A.'s") and 21 signed Double Taxation Avoidance Agreements ("D.T.A.A.'s") with African states, which means that global investors, traders, and private equity companies gain preferential access to a number of key African markets and hundreds of millions of customers.

The African Continental Free Trade Agreement ("Af.C.F.T.A."), established in January 2021, covers preferential trade for both goods and services between all 55 African countries. Mauritius is a signatory. With 55 African countries, a market of 1.3 billon people, and an economy of $2.6 trillion, the opportunity for member states is huge. The agreement has the potential to drive inclusive growth in Africa.

"Over the last few years, Mauritius has undertaken a complete overhaul of its tax system eliminating all laws deemed as harmful tax practices by the O.E.C.D."

THE MAURITIUS TAX REGIME

The tax regime of Mauritius remains one of the points of attraction for the country. Mauritius has a low income tax rate. In addition, Mauritius offers a range of incentives that reduces the tax rate in order to boost the competitiveness of the island in terms of facilitating business in the country. For instance, dividends paid by a Mauritius resident company and gains derived from the sale of units, securities, or debt obligations are exempt from income tax in Mauritius. There is no withholding tax on dividends paid by a Mauritian resident company. There are no capital gains tax and no inheritance tax in Mauritius.

Over the last few years, Mauritius has undertaken a complete overhaul of its tax system eliminating all laws deemed as harmful tax practices by the O.E.C.D. Significant changes were implemented to the tax system for the country to shed its image of a tax haven. As a result,, Mauritius has moved away from being a traditional tax haven to a tax-efficient jurisdiction of substance.

In 2019, the headline tax rate was harmonized at 15% for both the domestic and offshore sectors providing a transparent system and level playing field for all businesses. This regime has successfully generated substantive economic activities across all sectors of the Mauritian economy.

Previously, Mauritian tax law provided for a foreign deemed tax credit for companies operating in the global business sector. No matter what taxes were paid abroad, a tax credit of 80% could be claimed on foreign income which essentially meant that such income was effectively taxed at 3%. As a result of international pressures, the deemed foreign tax credit of 80% was abolished in 2019 and replaced by a system whereby a partial exemption of 80% was applied to certain types of income subject to meeting the substance requirements in Mauritius. Under the 80% partial exemption regime, 80% of the relevant income would be treated as exempt from tax in Mauritius.

Income from the following activities are eligible for the partial exemption:

- Foreign dividends derived by the company
- Interest derived by a company other than banks, money changers, insurance companies, and leasing companies
- Income derived from ship or aircraft leasing

- Income attributable to a permanent establishment
- Income from reinsurance and reinsurance brokering activities
- Income from leasing & provision of international fiber capacity
- Income from the sale, financing, arrangement, or asset management related to aircraft, including spare parts and aviation advisory services
- Interest income derived by a person from money lent through a peer-to-peer lending platform

The partial exemption regime is only applicable to companies which have substance in Mauritius, which is defined in the following way:

- The core income generating activities ("C.I.G.A") of the company must be located in Mauritius.
- The company should be managed and controlled from Mauritius.
- The company should be administered by a Management Company.

In order for a company to be managed and controlled from Mauritius, it should meet the following conditions:

- Its principal bank account should be maintained in Mauritius at all times.
- Its accounting records are maintained at its registered office in Mauritius.
- It prepares its statutory financial statements in Mauritius.
- Meetings of directors must include at least two directors from Mauritius.

In addition to the 80% partial exemption regime, Mauritius offers numerous tax incentives to boost competitiveness. To illustrate, all profits from the export of goods are taxed at 3% and profits from a Collective Investment Scheme ("C.I.S."), Closed-End Fund ("C.E.F."), C.I.S. Manager, C.I.S. Administrator. C.I.S. Adviser, or C.I.S. Asset Manager benefit from a 95% tax exemption.

A number of regimes offering tax holidays for a certain period are also available. With a strong finance sector and business environment, Mauritius has become a popular location for global corporations to maintain regional headquarters. The Mauritian legislation is designed to promote the establishment of companies offering Global Headquarters Administration ("G.H.A.") and Global Treasury Activities ("G.T.A.") activities from a base in Mauritius.

An eight-year tax holiday on corporate income is applicable to companies holding a G.H.A. license and a tax holiday of five years is available to companies holding a G.T.A. license.

The G.H.A. licenses are issued to companies which provide any three of the following services to related corporations within a multinational grouping:

- Administration and general management
- Business planning, development, and coordination

- Economic or investment research and analysis
- Services related to international corporate headquarters in Mauritius

Companies holding a G.T.A. License are expected to provide at least three treasury services to related companies from the following list:

- Arrangement for credit facilities, including credit facilities with funds obtained from financial institutions in Mauritius or from surplus of related companies
- Arrangement for derivatives
- Corporate finance advisory
- Credit administration and control
- Factoring and re-invoicing activities
- Guarantees, performance bonds, standby letters of credit, and services relating to remittances
- Management of funds for designated investments

Despite the overhaul of its tax system, Mauritius has retained certain key attractive tax features which make it a tax-efficient jurisdiction while still being approved by international regulators.

Mauritius has proven itself to be a collaborative and responsible international financial center that has taken significant steps to adhere to international best practices. To enhance its transparency and collaboration framework, Mauritius signed the O.E.C.D. Multilateral Convention on Mutual Administrative Assistance in Tax Matters in June 2015. Mauritius is also a member of the Early Adopters Group committed to the early implementation of the Common Reporting Standard ("C.R.S.") on the automatic exchange of financial account information.

The O.E.C.D. Global Forum has rated Mauritius as a "Largely Compliant" jurisdiction – a rating which equals that obtained by developed economies such as the U.S., the U.K., and Germany. It was the first African country to sign up to an Intergovernmental Agreement with the U.S. for the implementation of the Foreign Accounts Tax Compliance Act ("F.A.T.C.A.") and has joined the O.E.C.D.'s Inclusive Framework to implement the Base Erosion and Profit Shifting ("B.E.P.S.") recommendations and the new initiative on exchange of beneficial ownership information.Why Africa, why now?

Given its youthful, rapidly urbanizing population, it is no surprise that Africa remains at the top of investment agendas for businesses. Africa is currently going through a structural change and recent trends show that investors' interest has shifted from extractive activities to consumer-oriented activities, comprising new sectors such as technology, media and telecommunications, financial services, consumer product, retail & real estate, hospitality, and construction, and next-generation industries such as business services, tech, automotive, and life sciences.

The rewards promise to be substantial. The McKinsey Global Institute projects that by 2025, African household consumption and business-to-business ("B2B") spending could reach $5.6 trillion. That is equivalent to nearly a third of the current U.S.

gross domestic product. To get there, the continent has enormous infrastructure gaps to fill. Those gaps themselves represent enormous opportunities.

Mauritius provides the right launching pad and ecosystem for structuring investments into Africa with appropriate structuring vehicles, an investor-friendly jurisdiction, a dynamic and flexible debt market, and investment protection mechanisms and tools.