



## **ACCESSING THE MAURITIUS INTERNATIONAL FINANCIAL CENTRE USING MAURITIAN ENTITIES**

For clients wishing to access the advantages of the Mauritius International Financial Centre and who intend to invest outside Mauritius, with majority foreign ownership, the type of Mauritian entity to be set up will be either the Global Business Corporation (GBC) or the Authorised Company.

### **1. The Global Business Corporation (GBC)**

#### **1.1 The GBC**

The GBC is the type of vehicle used for international investment (often where tax treaty benefits are available) and/or where the entity is to be an investment fund. It can also be used for operating activities.

The GBC has replaced, with effect from 1 January 2019, the old GBC1 and no further GBC1 licences will be issued by the Financial Services Commission (FSC). The GBC is a re-modelled GBC1 and GBC1s existing on 31 December 2018 will automatically convert to GBC status.

The restrictions that existed on the extent to which a GBC1 could conduct dealings in Mauritius have been removed for the GBC. A resident Mauritian company or partnership which is majority held by a non-resident and which conducts the majority of its business outside Mauritius will be required to obtain a GBC licence from the FSC and to do so through a duly appointed management company.

In order to form a GBC, information on the ultimate beneficial owners and the intended business of the corporation must be given to the FSC, although this information is not available to the public. It will take between 7 and 8 working days to set up a GBC as a holding entity.

A GBC must have two Mauritian directors of sufficient calibre; provide for its board meetings to include at least the two Mauritian directors (telephonic participation is possible); maintain its principal bank account in Mauritius; maintain its accounting records in Mauritius; and have its financial statements audited in Mauritius.

#### **1.2 Taxation of the GBC**

A GBC in Mauritius (including a partnership holding a GBC licence, but not a bank) will be tax resident in Mauritius if it has its central management and control in Mauritius. (The additional place of effective management test that was introduced with effect from 1 January 2019 has been removed with effect from July 2019.)

### 1.2.1 Tax exemptions

A GBC which is tax resident in Mauritius will be taxed at the corporate rate of 15% on its income, but will be eligible for exemption for 80% of specified income (replacing the previous deemed tax credit) provided the substance criteria are met.

That specified income encompasses:

- Foreign source dividend provided that such dividend is not allowed as a tax deductible item in the source country.
- Foreign source interest income.
- Profit attributable to a permanent establishment which a resident corporation has in a foreign country.
- Income derived by a collective investment scheme, closed-end fund, CIS manager, CIS administrator, investment adviser or assets manager licensed or approved by the FSC.
- Income derived by companies engaged in ship and aircraft leasing.

The existing credit system for relief of double taxation will continue to apply where partial exemption is not claimed or available.

The former deemed tax credit provisions will no longer apply and the Income Tax Act 1995 has been amended to provide that “foreign source income” shall no longer include (i) income derived by a GBC1 from its transactions with non-residents or corporations holding a global business licence and (ii) income derived by banks from non-residents or corporations holding a global business licence.

However, income derived by a GBC1 issued with a licence on or before 16 October 2017 from its transactions with non-residents or GBC1s or GBC2s will continue to be considered as foreign source income until 30 June 2021.

The GBC, like the Authorised Company and the Domestic Company, is not subject to capital gains tax on the gain arising on the disposal of any of its investments, because there is no capital gains tax in Mauritian law.

### 1.3 Enhanced substance requirements for the GBC

With effect from 1 January 2019, there are enhanced substance requirements for GBCs set up since 16 October 2017, (as clarified in the FSC circular letter of 12 October 2018), and replacing the existing enhanced substance requirements for corporations, requiring that core income-generating activities should at all times be carried out in, or from, Mauritius, by the GBC:

- (a) employing, either directly or indirectly, a reasonable number of suitably qualified persons to carry out the core activities [where the employment is indirect, e.g. by a Mauritian management company, the employee should be suitably qualified to conduct the core activities]; and
- (b) having a minimum level of expenditure which is proportionate to its level of activities;

in addition to the existing requirements below:

- (d) management and control from Mauritius; and
- (e) administered by a management company.

When assessing these substance requirements, the FSC will consider the nature and level of core income generating activities conducted (including the use of technology) by the GBC.

When determining what is intended by “a reasonable number of suitably qualified persons” and “a minimum expenditure which is proportionate to its level of activities”, the FSC will make the assessment on a case by case basis and will look at the specific circumstances of each GBC. In doing so, the FSC will refer to the indicative guidelines set out in the circular letter as follows:

Category	Sub-category	Minimum annual expenditure (USD)	Minimum employment in Mauritius (direct or indirect)
Non-Financial	Investment holding (excluding IP rights)	12,000	No minimum employment specified
Non-Financial	Non-investment holding	15,000	If annual turnover is less than USD 100m – minimum 1 If annual turnover is more than USD 100m – minimum 2
Financial	CIS manager/ Asset manager	30,000	If assets under management are: Less than USD 100m – minimum 1 Between USD 100m-500m -minimum 2 More than USD 500m – minimum 3
Financial	Institutions (eg insurance, leasing, credit finance)	100,000	If annual turnover is: Less than USD 50m – minimum 1 Between USD 50m-100m -minimum 2 More than USD 100m – minimum 3  <u>For insurers:</u> If annual gross premium is: Less than USD 50m – minimum 1 Between USD 50m-100m -minimum 2 More than USD 100m – minimum 3
Financial	Intermediaries (eg investment adviser, insurance broker, insurance agent)	30,000	1
Financial	Others	25,000	1

The enhanced substance requirements will apply to those GBC1s set up prior to 16 October 2017 with effect from 1 July 2021.

## 2. The Authorised Company

### 2.1 The Authorised Company

The Authorised Company is the type of vehicle typically used for entrepreneurial companies and for trading and consulting activities and it can carry out any activity except banking, financial services, investment funds and nominee services. It will not access Mauritius' tax treaty network.

The Authorised Company was introduced with effect from 1 January 2019 to replace the GBC2, and it can carry out all the activities that the GBC2 was able to carry out. Like the GBC2 before it, the Authorised Company is able to avail itself of administration services provided by a management company in Mauritius.

An Authorised Company must satisfy the following criteria:

- (a) incorporated under the Mauritius Companies Act;
- (b) majority of shares / voting rights/legal/beneficial interest held by a non-citizen of Mauritius;
- (c) business conducted principally outside Mauritius (certain activities such as banking, financial services, nominee services are not allowed, as was the case for the GBC2);
- (d) central management and control is outside Mauritius; and
- (e) have a registered agent in Mauritius which shall be a management company.

An Authorised Company that satisfies these criteria will be treated as non-resident and, therefore, not liable to income tax in Mauritius, although it will have to file a return of income to the MRA within six months of its year end.

An application to the FSC for authorisation has to be made through a management company. Information on the ownership structure together with a brief business plan must be submitted to the FSC at incorporation. It takes between 4 and 5 working

days to set up an Authorised Company. An unaudited financial statement in the form of a financial summary is required to be filed annually with the FSC. The processing fee for an Authorised Company is USD 150 and the annual fee is USD 350.

Where a GBC2 had been issued with a licence on or before 16 October 2017, it will be grandfathered up to 30 June 2021 and its licence will lapse on 1 July 2021. Accordingly, the GBC2's exemption from income tax will continue to apply until 30 June 2021. However, such continued benefit will not apply if:

- The GBC2 has acquired intellectual property assets acquired from a related party after 16 October 2017.
- The GBC2 has acquired intellectual property assets acquired from an unrelated party, or any newly created intellectual property assets, after 30 June 2018.
- Income is derived from such specific assets acquired or projects started after 31 December 2018.

Where a GBC2 had been issued with a licence after 16 October 2017, it will have been grandfathered up to 31 December 2018 only, so would have had to apply between 8 October 2018 and 31 December 2018 to convert to Authorised Company status, failing which its licence as a GBC2 would have been deemed to have lapsed on 31 December 2018.

### **2.2 No taxation in Mauritius provided central management and control outside Mauritius**

If the Authorised Company has its central management and control outside Mauritius, it will not be taxed in Mauritius. If it has its central management and control inside Mauritius, it will then be liable to pay income tax in Mauritius. It will, therefore, be important for the Authorised Company to be clear from the outset where its place of central management and control outside Mauritius will be situated and to monitor this position on an ongoing basis. (The additional place of effective management test that was introduced with effect from 1 January 2019 has been removed with effect from July 2019.)

## **3. The Domestic Company**

### **3.1 Ownership of Domestic Company affects activities**

In addition to the GBC and the Authorised Company, there is the option of setting up a Domestic Company.

A Domestic Company set up before 1 January 2019 can be owned by Mauritians or non-Mauritians and can be used for local and international business.

A Domestic Company set up as from 1 January 2019 which is:

- (a) majority Mauritian-owned; or
  - (b) has among its investors development financial institutions, multilateral agencies or sovereign funds and obtains FSC approval;
- can be used for international holdings and can access Mauritius' tax treaty network. The Domestic Company is not subject to regulation by the FSC unless it is carrying out a financial services/investment fund activity.

Where the Domestic Company is to be majority foreign-owned (but does not fall into the category of (b) above), it will only be permitted to conduct business within Mauritius. (A Mauritian company which is majority foreign owned and which conducts its business predominantly outside Mauritius, will be required to obtain a GBC licence and engage a management company, as referred to above.)

It takes between two and three working days to set up a Domestic Company.

### **3.2 Taxation of the Domestic Company**

A Domestic Company is subject to income tax at the rate of 15% (although credit can be given for foreign withholding tax paid) and it can enjoy the tax exemptions explained at 1.2.1. Like the GBC and the Authorised Company, a Domestic Company which has its central management and control outside Mauritius will not be taxed in Mauritius. There is no capital gains tax in Mauritian law.

### **4. Using the GBC and the Authorised Company to access the advantages of the Mauritius IFC going forward**

For clients holding existing GBC1s, these are now known as GBCs. They will continue to enjoy favourable tax treatment along the lines of the treatment that they have enjoyed before and to operate as they have previously operated, with the demonstrating of substance on the ground in Mauritius continuing to be important.

For clients holding GBC2s prior to 31 December 2018, International Proximity will have handled the conversion process to Authorised Company status or alternatively GBC1 status prior to 31 December 2018.

For clients wishing to access the advantages of the Mauritius International Financial Centre going forward and who intend to invest outside Mauritius, with majority foreign ownership, the type of Mauritian entity to be set up will be either the GBC (particularly for substantial investment holding, investment funds and financial services activities) or the Authorised Company (particularly for entrepreneurial companies, trading and consulting activities.)

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