

## *MAURITIUS: THE INELECTABLE PASSAGE TO AFRICAN OPPORTUNITIES*

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### **INTRODUCTION**

Once generally overlooked by international investors, Africa is now seen as an increasingly attractive destination for private equity investment. The potential for highly profitable foreign investment in Africa is indeed enormous with opportunities in literally every sector of the economy. Africa has gone through a remarkable decade of economic transformation and the once upon a time “dormant lion” is now wide awake and at its peak with new opportunities for investors around the globe and many believe that Africa has initiated its economic take-off, much like China was 30 years ago, and India 20 years ago.

However, investment in Africa as is the case for any Cross border investment, also present many challenges including but not limited to investment protection issues and fiscal uncertainty. This is why the structuring of cross border investments requires careful consideration of the most appropriate investment vehicle to structure the investment together with the choice of the most favorable jurisdiction to set-up this vehicle.

Strategically located in the Indian Ocean at the crossroad of international investments, Mauritius is drawing on long-established links with India and Africa to position itself as a natural conduit for exponential growth in the emerging Africa and Asia trade corridor.

### **MAURITIUS INTERNATIONAL FINANCIAL SERVICES CENTRE**

Mauritius is widely heralded as the “Gateway to Africa” and despite the talks about the impact of the Indian Direct Tax Code, it is still the preferred route for investment into India. Its wide network of treaties (35 in force while another 6 await ratification) and simple and favourable tax regime make it a preferred bridging step between the Western World and the emerging markets of Africa, India and China. However, the professionals of the area acknowledge that Mauritius has more going for it than just tax and sandy beaches.

As a leading International Financial Services Centre, Mauritius has developed a fine brand of professional workforce rivalling in competence with European and Western jurisdiction. Mauritius is now an attractive jurisdiction for firms looking to capitalise on opportunities within this field. It has recently liberalised its legal services market to enable foreign law firms to establish local offices or joint ventures alongside Mauritian lawyers. The Mauritian authorities are keen to engage

with a wider international legal sector in-country with the effect of further stimulating investor confidence in the market. Mauritius is also positioning itself as a regional centre for international dispute resolution and is actively promoting for international legal practitioners to represent parties and to act as arbitrators in international commercial arbitrations in Mauritius.

### **MAURITIUS: AN IDEAL INVESTMENT PLATFORM**

Mauritius combines the traditional advantages of a traditional offshore financial center (there is no capital gains tax, no withholding tax, no capital duty on issued capital, confidentiality of company information, exchange liberalization and free repatriation of profits and capital etc.) with the ability for treaty based tax planning through its network of double taxation avoidance treaties (DTA). Where a DTA applies, this results in interesting and attractive tax planning opportunities which include:

- Reduction in withholding taxes on dividends, interest and royalties
- Exemption from capital gains tax
- An automatic deemed tax credit system which result in a maximum effective tax of 3%

When it comes to Africa, although treaty benefits vary country by country, generally capital gains are taxed at rates of as much as 35%. However, most of the Mauritius treaties restrict the taxing of capital gains to that of the country of residence of the seller, and as there is no capital gains tax in Mauritius, the potential tax saving is significant.

The treaties will also generally reduce (and sometimes completely eliminate) withholding taxes on dividends, interests or royalties paid to nonresidents. The majority of African states impose withholding taxes on dividends, interests and royalties at rates varying between 10% and 20%. By using a Mauritius investment vehicle, potentially result in significant potential tax savings.

In order to benefit from the DTA, the investment should be made by a “resident of Mauritius”. This will generally be through a Global Business Category 1 Company (GBC1).

Even where there is no DTA, it may still be advantageous to structure the investment holding entity in Mauritius as a Global Business Company Category 2 (GBC2). Such a company which is akin to an International Business Company (IBC) will benefit from all the other fiscal and non-fiscal advantages that Mauritius provides with the exception of treaty benefits. Additionally, it can always be converted to a GBC1 as and when a DTA becomes in force with the target jurisdiction. The GBC2 is considered not to be resident in Mauritius from tax purposes and is thus exempt from taxation.

## OTHER BENEFITS

Mauritius has signed Investment Promotion and Protection Agreements (IPPAs) with 15 African countries, one of which (South Africa) is in force. These IPPAs, inter alia, provide for free repatriation of investment capital and returns, guarantee against expropriation, provide for a most favoured nation rule with respect to treatment of investors, and compensation for losses in case of war, armed conflict or riot and further provide arrangements for the settlement of disputes between investors and the contracting states.

Mauritius is a member of the major African regional organizations which provide preferential access to markets in the Africa region such as the African Union, Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA) and the Indian Ocean Rim – Association for Regional Cooperation (IOR-ARC). Its membership in these regional organizations, and being a signatory to all the major African conventions, can make Mauritius the best offshore financial service centre for establishing any fund or other vehicle for investment into Africa, especially having regard to treatment of the investments.

On the other hand, while fully belonging to Africa, Mauritius is a reference in the region. It has been ranked 1<sup>st</sup> for the fourth successive year in the African Region in the World Bank Doing Business Survey, has achieved an economic freedom score of 77.0, making its economy the 8th freest in World Index of Economic Freedom 2011 of the Heritage Foundation, and has been ranked 36 in the global off shoring platform in the At Kearney Offshoring Index amongst others. Although Mauritius has regressed by 1.2 percent in the score from 2009 to 2011, the country is still the lowest-cost emerging destinations in the sub-Saharan region.

It therefore cannot therefore be overlooked by anyone contemplating an investment in Africa.

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### About the author

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