

E-BOOK



Apex Compliance Solutions

Quarterly Update - Mauritius

Q2- July 2022



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1. National Budget- 2022/23

The 2022/23 National Budget for Mauritius was presented on June 07, 2022 after yet another year of unprecedented and unforeseeable events.

The National Budget 2022/2023 titled “With the People, For the People” aims mainly at protecting the social fabric, through investment in people, while paving the way towards a sustainable and a more self-sufficient future.

External shocks coupled with cost-push inflation keep on eroding the purchasing power of Mauritians and for the government, protecting its people whom it considers as its most valuable asset remains its top priority. In order to contain inflation, the Monetary Policy Committee of the Bank of Mauritius has increased the Key Repo Rate cumulatively by 40 basis points since March this year. In this year’s budget, the Minister announced a series of measures aimed at protecting its population, especially the most vulnerable ones.

Key announcements in the budget for Global business and financial services update

2022 will undoubtedly be remembered as a momentous year for the financial services sector in Mauritius following its delisting from the European Union’s list of High-Risk Third Countries and the United Kingdom’s list of High-Risk Third Countries.

In an attempt to further enhance competitiveness of the Mauritian International Financial Services Sector, key highlights of the budget are:

- Removal of cost associated with the incorporation of a company;
- Bank of Mauritius will ensure that a bank account can be opened within 1 week;

- Adapting legislative framework to converge the domestic and the global business regime;
- The Financial Services Commission, Mauritius (“FSC”) will revamp its framework to enable Re-Insurance companies to set up operations in Mauritius;
- The requirement for high-net worth individuals and families has been reviewed to a minimum portfolio of USD 5 million per management family office;
- Holders of Global Headquarters Administration licence will be provided work/residence permits for 5 executives and dependents;
- Launching of the Renminbi Clearing Centre with joint collaboration by the Bank of Mauritius and the Bank of China;
- Issuance of ‘RuPay’ cards and Indian QR Code in Mauritius including National Payment cards in collaboration with the National Payments Corporation of India;
- An 8-year income tax holiday will be granted to a newly set up Freeport operator or developer making an investment of at least Rs. 50 million upon operation on or after 1 July 2022 and conforms with the relevant substance requirements;
- The Bank of Mauritius will launch a regional Renminbi Clearing Centre this year, in collaboration with the Bank of China;
- The Bank of Mauritius will collaborate with the National Payments Corporation of India for the issuance of ‘RuPay’ cards and Indian QR Code in Mauritius; and
- The Financial Services Institute will become an awarding body to provide for specialist trainings in the sector.

Ease of doing business

To further facilitate business in the country, this year's budget introduces measures such as the removal of any costs associated with the setting of a company/business and the streamlining of licences and permits in the construction, tourism, healthcare, and logistics sectors. Other salient measures include the following:

- The introduction of a Business Regulatory Reform Bill as an apex legislation on business facilitation.
- Supporting businesses by enabling them to recruit talents under the Young Professional Occupation Permit.
- Enabling entrepreneurs and students completing their studies to benefit from the Premium Visa. x Holders of Residence Permits will be given the opportunity, upon applications, to acquire a residential property of a minimum of USD 350 000 outside the existing schemes subject to a 10% contribution made to the Solidarity Fund. A Committee chaired by the Prime Minister will examine the applications on a monthly basis.
- To continue building on the silver economy strategy and in an effort attract more foreign retirees in Mauritius, the EDB will organise the first edition of the Mauritius International Silver Economy Festival.
- Supporting businesses as they invest in the training and skilling of 3,000 of our youths, men and women through an increased monthly stipend of:
 - Rs. 8,000 for those under the National Apprenticeship Programme and the National Skills Development Programme; and
 - Rs. 10,000 for the Graduate Training for Employment Scheme
- Moreover, encouraging women getting back into the job market by doubling the period of placement to two years.

AML & CTF Changes

Further changes are being proposed to the AML/CFT legal and regulatory framework to increase its robustness in fighting against financial crime. A Financial Crime Commission will be set up to ensure effective coordination in the fight against financial crimes and hence providing the synergy between the various law enforcement and intelligence gathering agencies.

2. Summary of key legislative changes in the global business landscape announced in the budget

<p>Financial Services Act 2007</p>	<p>The Financial Services Act will be amended to:</p> <ol style="list-style-type: none"> a. remove “Global Headquarters Administration”, “Global Shared services” and “Global treasury activities” from the scope of “financial services” under the Financial Services Act and to create a separate section for regulation of global activities in line with FATF requirements; b. enable the FSC to initiate regulatory actions against individuals who have in effect been performing the functions of an officer although they have not been formally approved by the FSC; c. provide for the setting up of a Settlement Committee for the purpose of assessing the possibility for early resolution of disciplinary matters with a licensee; and d. review provisions on global shared services and compliance services for them to be regulated under the relevant section.
<p>Companies Act 2001</p>	<p>The Companies Act will be amended to:</p> <ol style="list-style-type: none"> a. remove temporary time extension provided because of Covid-19 and reinstate the requirements for registered companies to: <ol style="list-style-type: none"> i. call annual meeting of shareholders not later than 6 months after the balance sheet date; ii. prepare financial statements within 6 months after balance sheet date; and iii. filing of financial statements with the Registrar of Companies within 28 days from the date such financial statements have been signed, or such other period as may be determined by the Registrar of Companies; b. reinstate the application of Section 162 of the Act relating to duty of directors on insolvency subject to such conditions as may be prescribed; c. provide for the disclosure of the following information with respect to subsidiaries in annual reports: <ol style="list-style-type: none"> i. particulars of interest; ii. donations made by the subsidiaries; iii. details of present and past directors; iv. fees payable to auditors; and v. details of major transactions; d. prevent companies from being both registered in Mauritius and in another jurisdiction at the same time; e. allow the Registrar of Companies to remove a company from the Register of companies where there is no other reason for the company to continue its existence; and f. ease restoration of a company to the Register in case it was still carrying on business at the time of removal by the Registrar of Companies.

2. Summary of key legislative changes in the global business landscape announced in the budget

Securities Act 2005	The Securities Act will be amended to, inter alia, extend the regulatory functions of an Official exchange to allow for investigations of market abuse cases involving issuers on securities exchanges.
Financial Reporting Act	The Financial Reporting Act (the "Act") will be amended to: a. cater for the conduct of examinations, assessments or interviews by Mauritius Institute of Professional Accountants (MIPA) for the purpose of registering public accountants; b. empower MIPA to inquire into any written complaint made against any registered public accountant; c. prohibit a non-registered person from giving the impression that he is authorised to provide services of a public accountant in Mauritius; and d. exempt public interest entities from Section 75(1) of the Act

3. Introduction of the Variable Capital Companies Act 2022

3.1 The introduction of the Variable Capital Companies Act 2022

The enactment of the Variable Capital Companies Act 2022 (the "Act") in April 2022 marks yet another milestone for Mauritius as it cements its position as the International Financial Centre of choice for the region.

3.2 The rationale for using a Variable Capital Company ("VCC").

The VCC can operate as a standalone entity or as an umbrella structure comprising sub-funds. Special Purpose Vehicles (SPVs) can also be set up under the VCC or its sub-funds. For fund managers having several investment strategies and objectives, the VCC could prove to be the ideal vehicle since it can have different sub-funds operating as either closed-end funds or open-ended funds as well as SPVs. If it so wishes, the VCC, its sub-funds and SPVs can all share a board of directors, a fund manager, CIS administrator and other service providers which ultimately provides significant economies of scale. Furthermore, the sub-funds and SPVs in a VCC can opt to have a separate legal personality and be structured as companies.

3.3 Main features of the VCC

1. Setting up /registration

- Incorporated under the Mauritius Companies Act 2001
- An existing Mauritian company can apply for conversion to a VCC
- A foreign incorporated company can apply for registration by way of continuation as a VCC provided that the foreign jurisdiction allows for outward migration

2. Name

Must have the words "Variable Capital Company" or "VCC" after its name

3. Activities

Its primary objective is to operate as a fund. It must carry out its business through sub-funds and special purpose vehicles

4. Constitutive document

A VCC is required to have a constitution that complies with the Mauritius Companies Act 2001

5. Requirement to be authorised by the Financial Services Commission (FSC)

It should apply for an authorisation with the Financial Services Commission (FSC) to operate as a VCC Fund. The FSC may also approve the operation of a sub-fund(s) as a collective investment scheme (CIS) or a closed-end fund (CEF) all within one structure

6. Legal Proceedings

A VCC may sue or may be sued in respect of a sub-fund / SPV and this will only be ring-fenced to that specific sub-fund / SPV

7. Issue of shares and declaration of dividend

A VCC may issue shares of varying amounts in its sub-funds and SPVs and it can also declare and pay dividend in respect of shares of a sub-fund or SPV by reference only to the assets and liabilities attributable to that sub-fund or SPV

8. Power to redeem / buy back shares

A VCC may redeem or buy back its shares or those of its sub-funds and SPVs in accordance with its constitution - the shareholders will be entitled to a refund in line with the number of shares he/she owns

9. Reduction of share capital

A VCC may seek an authorisation from the Registrar to reduce its share capital or that of its sub-funds or SPVs.

Similarly, a shareholder may seek an authorisation from the Registrar to reduce the share capital of the sub-fund or SPV in which he/she holds shares.

10. Filing of accounts

The VCC may elect, through an irrevocable notice to the Registrar and the Mauritius Revenue Authority, to present separate financial statements in respect of each of its sub-funds and SPVs in accordance with IFRS or any other internationally accepted accounting standards.

In the instance that the sub-funds and SPVs have a separate legal personality from the VCC, they are also required to present separate financial statements.

3.4 Taxation of a VCC

In line with section 26(3)(b) of the Act, the VCC, its sub-funds and SPVs will be treated as a single entity for tax purposes if no election has been made by the VCC to present separate financial statements for the VCC, its sub-funds and the SPVs.

Hence, only one tax return will have to be filed with the Mauritius Revenue Authority for the VCC. In the instance that such an election is made, then the VCC, its sub-funds and SPVs will be required to file separate tax returns and each of them will be liable to income tax on its own income.

It is expected that where the sub-fund of a VCC holds a valid CIS or closed-end fund licence as issued by the FSC, the sub-fund may benefit from the partial exemption regime as long as it satisfies the prescribed substance conditions in Mauritius.

The Financial Services Commission ("FSC") has on July 04, 2022 issued an FAQ on Variable Capital Company.

<https://www.fscmauritius.org/media/129532/faqs-variable-capital-company.pdf>