Final step in phasing out the GBL1/GBL2 and deemed foreign tax credit regimes in Mauritius: What next?

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In 2018, in line with the OECD's BEPS initiatives, Mauritius undertook various legislative reforms, through the Finance (Miscellaneous Provisions) Act 2018, with a view to enhance the country's competitiveness and transparency as an international financial centre (**IFC**). This resulted, inter alia, in:

- the abolition of the previous regimes of Global Business Category 1 and 2 (**GBL1**, **GBL2**) Licences from 1 January 2019, to be replaced by the Global Business Company (**GBC**) and the Authorised Company (**AC**); and
- the abolition of the deemed foreign tax credit regime (where GBL1 companies were able to claim a presumed tax credit of 80% of the Mauritian tax on foreign income, resulting in a 3% effective tax rate), to be replaced by the partial exemption regime (**PER**) of 80% in respect of foreign sourced income.

Grandfathering provisions were introduced to ensure a smooth transition into the new global business framework, namely:

- all GBL1 licences issued on or before 16 October 2017 will be grandfathered until 30 June 2021, after which they will be deemed to be GBCs; and
- all GBL2 licences issued on or before 16 October 2017 will be grandfathered until 30 June 2021, after which the company has the option to convert into the new structure (GBC or AC), or the GBL2 licence will lapse[1] .

Post the grandfathering period, and subject to the satisfaction of the substance requirements, a GBC will be able to either:

- claim a tax credit on its actual foreign source income (as opposed to deemed) which has been subject to taxes in the source country; or
- seek 80% PER on certain income, subject to it not claiming foreign tax credit on its foreign source income and complying with the substance requirements which, in effect, will expose such income to a maximum tax rate of 3%.

Subject to the satisfaction of the conditions set out in the Income Tax Act 1995 and the Income Tax Regulations 1996, the PER is available in respect of the following foreign sourced income streams, including but not limited to:

- dividend;
- interest income;
- income derived by a Collective Investment Scheme (**CIS**), Closed-End Fund, CIS Manager, CIS Administrator, Investment Adviser or Asset Manager licensed or approved by the Financial Services Commission; or
- income derived by companies engaged in ship and aircraft leasing.

This change in regime is now complete at the same time that, during its June 2021 Plenary, the Financial Action Task Force (**FATF**) made its determination that Mauritius has substantially completed its action plan, in terms of addressing issues relating to the level of effectiveness of its AML/CFT system in place, and thus warrants an on-site assessment, at the earliest possible opportunity. In the event of a positive on-site assessment, Mauritius will be removed from the FATF grey list, potentially in October 2021, which in turn would lead to its removal from the AML List of High-Risk Third Countries by the EU. In the context of developing trends and making the country more attractive vis-à-vis other competing jurisdictions, the reforms to the Mauritius global business sector marks a new era of development and should be seen as proactive steps to bolster the position of Mauritius as an IFC of repute and a jurisdiction of substance.

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1. A company holding a GBL2 licence on or after the 1 July 2021 shall lapse. However, the company shall continue to (i) comply with such terms and conditions as the FSC may determine; (ii) remain subject to the obligations of a licensee; and (iii) comply with the directions of the FSC for the orderly dissolution of the business and the discharge of its liabilities.

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