

A welcome change to the Special Purpose Fund in Mauritius

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"Following the revamp of the SPF framework, we expect renewed interest from promoters and sophisticated investors who will be drawn to this cost-effective and tax-efficient structure. This will provide a welcome boost to Mauritius in its aim to position itself as an attractive international financial centre amidst growing competition from other jurisdictions".

In the last years, Mauritius has emerged and positioned itself as being an international financial centre of excellence, choice and repute. Coupled with Mauritius' continuing achievements in terms of good corporate governance (such as Mauritius ranking 13th globally in the Ease of Doing Business list of the World Bank), Mauritius has not only become an attractive proposition for the setting up and administration of private equity funds in Mauritius, but has also evolved into a facilitator in bridging the gap between investors and jurisdictions in constant need of investment, mostly situated in African or Asian countries. Beyond the use of the typical/standard special purpose vehicle, generally authorised as open-ended collective investment schemes (CIS) and closed-end funds (CEF), the legislative framework provides for additional authorisations (such as the professional CIS, the expert fund or the special purpose fund) which caters for funds set up for specific purposes and with different requirements.

With a view to making the Special Purpose Fund structure (SPF) more attractive to investors, the Mauritius Financial Services Commission (FSC) recently issued the Financial Services (Special Purpose Fund) Rules 2021 (the 2021 Rules) which revoked the Financial Services (Special Purpose Fund) Rules 2013 (the 2013 Rules).

The main purpose of the SPF was to provide a tax-exempt vehicle to promoters and investors. However, it failed to attract much interest due to the restrictive provisions under the 2013 Rules, namely an SPF being required to:

- conduct investments solely in countries that do not have a tax arrangement with Mauritius; or
- invest mainly in securities whose returns were exempted from taxation.

The 2021 Rules remove the abovementioned restrictions and provide for no definitive criteria regarding the classification of an SPF. Rather, the FSC has the prerogative to use its discretionary powers to authorise and impose such conditions as it may deem necessary for a CIS or a CEF (collectively referred to hereinafter as the "scheme") to operate as an SPF.

Subject to the above, the FSC may authorise a scheme to operate as an SPF if it:

- has a maximum of 50 investors and a minimum subscription of US\$100,000/- per investor;
- is managed by a CIS manager and administered by a CIS administrator;
- offers its shares, solely by way of private placements to investors having competency, significant experience and knowledge of fund investment; and

- ensures that the SPF, CIS manager and CIS administrator carry out their core income generating activities in, or from, Mauritius, and employ an adequate number of qualified persons and incur minimum expenditure proportionate to the level of such activities.

The SPF remains a tax-exempt vehicle under the Mauritius Income Tax Act 1998 and all interest, rents, royalties, compensation and other amounts paid by an SPF to a non-resident are considered as exempt income. The SPF is also exempted from preparing and filing unaudited quarterly financial statements, though it must file its audited financial statements with the FSC within six months of its financial year-end.

The 2021 Rules are expected to give further flexibility and facilitate access to new markets, while also strengthening Mauritius as an international financial centre.

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