



New Substance Requirements for Global Business Companies

The Government's endeavor in promoting investor confidence and transparency into the Mauritian economy has reverberated across the finance sector and in particular, the Global Business sector. The latter is currently riding an ineluctable wave of change following the recent enactment of the Finance (Miscellaneous Provisions) Act 2018 (the "Finance Act 2018").

As previously mentioned in our newsletter pertaining to the Finance Act 2018¹, the Financial Services Commission ("FSC") will no longer issue Category 1 Global Business Licence ("GBL1") as from 1st January 2019. There will be only one type of Global Business Licence issued by the FSC which will be known as the Global Business Licence ("GBL").

For reminder, the Category 2 Global Business Licence ("GBL2") is no longer being issued by the FSC. There is now a new type of company known as "Authorised Company"².

The new substance requirements apply to the GBL and the holders of a GBC1 licence issued after 16 October 2017. They do **not** apply to an Authorised Company.

In line with Section 71(1) of the Financial Services Act, a resident corporation shall apply for a GBL from the FSC (hereinafter referred to as "GBC"):

Where:

- the majority of its shares / voting rights / the legal / beneficial interest are held or controlled, as the case may be, by a **non-citizen** of Mauritius; and
- such corporation proposes to conduct or conducts business **principally outside** Mauritius or with such category of persons as may be specified in the Financial Services Commission (FSC) Rules.

With a view to satisfy the substance requirements, a GBC shall, **at all times**:

- (i) Carry out its core income generating activities in, or from, Mauritius by:
 - (a) Employing, either directly or indirectly, a reasonable number of suitably qualified persons to carry out the core activities;
 - (b) Having a minimum level of expenditure which is proportionate to its level of activities;
- (ii) Be managed and controlled from Mauritius; and
- (iii) Be administered by a Management Company.

¹ If you missed our newsletter on the Finance Act 2018, please click [Here](#) to access same.

² If you missed our newsletter on the New Rules for Authorised Companies, please click [Here](#) to access same

The FSC issued Circular Letters [CL1-121018](#) and [CL151018](#) on 12 October 2018 and 15 October 2018 respectively to provide clarifications and indicative guidelines on the new enhanced substance requirements for the GBC as per point (i) cited above.

The requirements of the Circular Letters shall be effective as from **1 January 2019** for GBC and GBL1 licensed after 16 October 2017.

It is to be noted that for Group companies, the FSC will assess the new enhanced substance requirements at Group level.

New Substance Requirements for GBC

■ Assessment of Management & Control in Mauritius

In line with Section 71(b) of the Financial Services Act, the FSC will now consider in particular but without limitation, the following when determining whether the conduct of business is managed and controlled from Mauritius:

The corporation should:

- (i) have at least **2 directors**, resident in Mauritius, of sufficient calibre to exercise independence of mind and judgement;
- (ii) maintain, at all times, its **principal bank account** in Mauritius;
- (iii) keep and maintain, at all times, its **accounting records** at its registered office in Mauritius;
- (iv) prepare its statutory financial statements and causes such financial statements to be **audited** in Mauritius; and
- (v) provide for **meetings** of directors to include at least 2 directors from Mauritius.

In furtherance to the foregoing, the FSC will assess the issuance of a GBL on a case by case basis and will look at the specific circumstances of each applicant. In doing so, the FSC will refer to the indicative guidelines as set out in the following table:

■ Minimum Annual Expenditure and Employment in Mauritius (Circular Letter CL1-121018)

Category	Sub-Category	Minimum Annual Expenditure (USD)	Minimum Employment in Mauritius (Direct or Indirect ⁴)
Non-Financial	Investment Holding (excluding IP rights) ¹	12,000	No minimum employment specified
	Non-Investment Holding	15,000	If annual turnover is : Less than USD 100m : minimum 1 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 and USD 500m : minimum 2 - More than USD 500m : minimum 3
	Institutions ²	100,000	If annual turnover is : - Less than USD 50m : minimum 1 - Between USD 50m and USD 100m : minimum 2 - More than USD 100m : minimum 3 For Insurers If annual gross premium is : - Less than USD 50m : minimum 1 - Between USD 50m and USD 100m : minimum 2 - More than USD 100m : minimum 3
	Intermediaries ³	30,000	1
	Others	25,000	1

¹ GBCs holding IP Rights will be required to demonstrate that they have incurred expenditure in Mauritius which is proportionate to the research and development of the relevant IP Rights.

² E.g. Insurance, Leasing, Credit Finance

³ E.g. Investment Adviser, Insurance Broker, Insurance Agent

⁴ A person employed either directly or indirectly (e.g. employment by a Management Company) should be suitably qualified to conduct the core income generating activities of the GBC

⁵ For Group companies, the FSC will assess the new enhanced substance requirements at Group level

⁶The above guidelines do **not** supersede the criteria of assessment for tax holidays under the Second Schedule of the Income Tax Act for the following licensees which remain as follows:

Licences	Tax Holidays	Conditions			
		Physical Office in Mauritius	Minimum number of employees resident in Mauritius	Asset under Management (USD)	Minimum Annual Operating Expenditure
Global Headquarters Administration	8 years	✓	10 professionals, with at least 2 at managerial positions	N/A	MUR 5 million (approx. USD135k)
Global Treasury Activities	5 years	✓	4 professionals, with at least 1 at managerial position	N/A	MUR 2 million (approx. USD54k)
Overseas Family Office (Single)	5 years	✓	1 professional	USD 5 million	N/A
Overseas Family Office (Multiple)	5 years	✓	3 professionals	USD 5 million per family	N/A
Global Legal Advisory Services	5 years	✓	5 lawyers	N/A	N/A

■ Core Income Generating Activities - Circular Letter CL151018 (Circular Letter CL1-121018)

The FSC will consider the nature and level of core income generating activities conducted (including the use of technology) by the GBC as per the guidelines¹ below:

Type of Licence	Indicative Core Income Generating Activities
COLLECTIVE INVESTMENT SCHEME	Investment of funds in portfolios of securities, or other financial assets, real property or non-financial assets; diversification of risks; redemption on the request of the holder
CLOSED-END FUND	Investment of funds collected from sophisticated investors, in portfolios of securities, or in other financial or non-financial assets, or real property
CIS MANAGER	Management of a Collective Investment Scheme; taking decisions on the holding and selling of investments; calculating risks and reserves; taking decisions on currency or interest fluctuations and hedging positions; and preparing relevant regulatory or other reports for government authorities and investors
CIS ADMINISTRATOR	Providing services with respect to the operations and administrative affairs of a collective investment scheme including accounting, valuation or reporting services
INVESTMENT ADVISER or ASSET MANAGER	-Advise, guide or recommend other persons, or hold himself out to advise, guide or recommend other persons, whether personally or through printed materials or by other means, to enter into securities transactions; -Manage or hold himself out to manage, under a mandate, whether discretionary or not, portfolios of securities; -Give advice on corporate finance advisory matters concerning securities transactions

¹ The above do not affect the obligation of any GBC to comply with the relevant Acts, FSC Rules, Codes and any guidelines issued by the FSC or any other enactment, legal and regulatory requirements.

Are you meeting the new substance requirements?

For its existing client base, ITL will carry out individual assessments to check if they are meeting the new substance requirements and will propose solutions geared towards their specific needs, wherever required. Your designated contact person will get in touch with you shortly to discuss on the way forward.

For clients wishing to apply for a GBL and/or requiring further information and clarifications, please do not hesitate to contact us by dropping us an e-mail on info@intercontinentaltrust.com or calling us on +230 403 0800.

For any additional information please contact us.

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