

# INTERCONTINENTAL TRUST NEWSLETTER

APR 2020



Intercontinental Trust Ltd

## Take Action- Changes in the regulatory and fiscal landscape

Dear Clients,

We hope that you are keeping safe during these uncertain times.

Many of you have been asking us about the changes in legislation in Mauritius impacting your structures and whether these changes result in any penalties in case of non-compliance. We have also previously written to you about certain key compliance issues such as the Place of Effective Management (POEM) and the Central Management & Control (CMC) of certain companies and the coming into force of Country by Country (CbC) legislation.

We have put together a flowchart that should assist you in determining whether you need to take action to ensure compliance across the board in Mauritius. Our flowchart considers various structures and types of companies.

With a view to address Base Erosion and Profit Shifting (BEPS) issues, our fiscal legislation has been amended to include substance requirements for certain companies. As your key service provider, we can assist on those issues. We also note that addressing and implementing cost-efficient substance criteria may take some time and therefore we would highly recommend that you get in touch as soon as practicable to discuss these issues.

We understand that the current situation is stressful and is disruptive to business in general, but we hope that this document helps you identify in good time whether you need to put in place substance requirement or bolster existing structures to be fully compliant from a taxation and regulatory perspective.

Our staff remains at your disposal to provide more details on the below. We also hope that this document is useful and will help you in navigating through your compliance obligations in Mauritius.

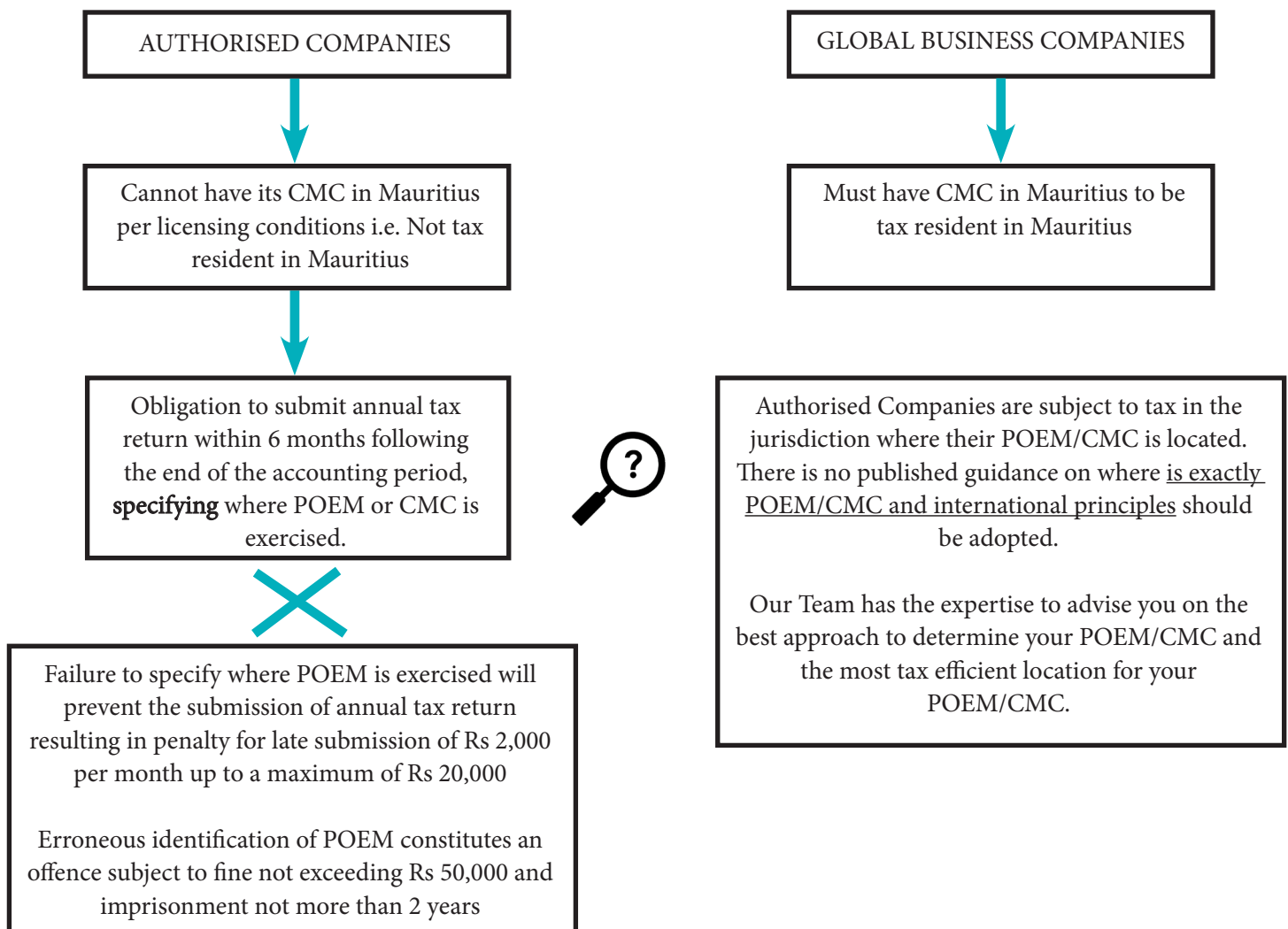
We thank you for your attention.

**STEP 1: identify type of company and whether it is grandfathered<sup>1</sup>**

Type of Company	Date of Incorporation	Licence	Further Action
Global Business Category Licence 1	Incorporated on or before 16 October 2017	Grandfathered until 30 June 2021 and then will automatically change to a Global Business Company licence	Company <b>should already</b> consider substance requirements post grandfathering. See Step 3.
Global Business Category Licence 2	Incorporated before 16 October 2017	Grandfathered until 30 June 2021 and the licence will lapse.	Company <b>must</b> ascertain appropriate type of licence post grandfathering.
Global Business Category Licence 1	Incorporated after 16 October 2017	Company now holds a Global Business Company Licence as of 1 January 2019	Substance requirements <b>are</b> applicable. See Step 3.
Global Business Category Licence 2	Incorporated after 16 October 2017	Some will have converted to Authorised Company status and others will have had their licences lapsed.	See Step 2 for companies now having an Authorised Company Status.

<sup>1</sup> This means that the company is subject to the same regulatory and fiscal framework as before.

**STEP 2: Tax Residence**



### STEP 3: Taxation of Global Business Companies (GBC)

Only GBCs which have been grandfathered can avail themselves of the deemed foreign tax credit of 80% on all their foreign sourced income. Companies incorporated after 16 October 2017 are taxable at the rate of 15% of their income subject to applicable exemptions allowed on certain streams of income (Partial Exemption Regime).

Companies deriving interest income or foreign dividends or holding certain licences may avail themselves of the PER which will mean that 80% of their income will be exempted from income tax.

Does the company derive income from specified streams at Annex 1 or hold a relevant licence<sup>2</sup> ?



Yes



Is the company a pure equity holding company and earning only dividends? Yes



No



Lower substance requirements relating to corporate filings & management of participation

Companies need to demonstrate CIGA in Mauritius + show that they meet other substance requirements such as employment and expenditure



Failure to demonstrate CIGA + substance requirements consistently during the income year



Company will be ineligible for partial exemption + taxed at 15%

Other consequences in our opinion:

- Audits from the Mauritius Revenue Authority (MRA)
- Action from supervising body (Financial Services Commission)

<sup>2</sup> See Annex 1 of this note for the exhaustive list of licences and activities

#### **STEP 4: Implementing CIGA + Substance Requirements**

**Duration:** must be in place during the income year or at least show that it is being implemented.

**What is my CIGA + Substance requirements?** it depends on the type of income and licence held. It is varied and there is no uniform solution.

Our team of experienced professionals can assist you in navigating the above flowchart if you should wish. We are able to provide you with sound and cost-efficient solutions in terms of substance requirements. We are also at the forefront of our industry and will keep you updated of any matter that you should consider in terms of compliance.

## Annex 1

<b>A. List of licences eligible for PER<sup>3</sup> :</b>
Collective Investment Scheme (CIS)
CIS Administrator
Closed End Fund
CIS Manager
Investment Adviser
Asset Manager

<b>B. List of streams of income eligible for PER:</b>
interest derived by a company other than a bank
income derived by companies engaged in ship and aircraft leasing
income derived by a company from reinsurance and reinsurance brokering activities
income derived by a company from leasing and provision of international fibre capacity;
income derived by a company from the sale, financing arrangement, asset management of aircraft and its spare parts and aviation advisory services related thereto

Note: Under the Partial Exemption Regime, the income derived by companies holding licences in A above and the streams of income listed in B are eligible to a partial exemption of 80%, thus bringing the effective rate of tax on these income to a maximum of 3%.

<sup>3</sup> Must be licensed by the Financial Services Commission in Mauritius

## ITL v/s Covid-19

Our Management Team is devoting a lot of its time and resources to minimize the impact of the pandemic crisis on our service level whilst ensuring the well-being of our employees. Our Pandemic Preparedness and Response plan has been activated since the beginning of the lockdown and the following operational changes have since then been implemented:

### Work-From-Home (WFH):

Effective as from Friday 20 March 2020, all our employees are working from home. We would like to highlight that our WFH facilities have been tried and tested for a number of years already and that these are fully compliant with our data privacy and data security protocols.

### Suppliers:

We have Service Level Agreements with our 3<sup>rd</sup> party suppliers to ensure that they are adhering to their forthcoming delivery and equipment servicing commitments, even during the lockdown period.

### Client Meetings:

Our employees remain primarily reachable by e-mail but client meetings are being conducted through ZOOM. Our Information Technology and Information Security teams are working behind the curtain on the ZOOM administrative portal to ensure best practices and configurations are followed and implemented in order reinforce the security perimeter around the app.

For any additional information please contact us.

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