



Bio

Mr. Steven Sengayen is the managing partner of Steven & Associates Law firm based in Ebene Mauritius. He is corporate and international finance lawyer with in-depth experience of law and its application in corporate and commercial transactions, dispute resolution and investment activities.

He has advised and assisted clients on various UK and cross border dispute resolution matters, mergers and acquisitions, reorganisations, joint ventures as well as taking a key role in negotiating and drafting international commercial agreements.

INVESTOR'S

An Overview of Mauritius IFC

With over more than twenty five years' track record in cross border investment and finance, Mauritius prides itself as an International Financial Centre with not only a strong and sound regulatory framework focused on best practices, fairness, efficiency and transparency of financial institutions and markets, but as a jurisdiction of choice and substance for investments in Africa and worldwide. Mauritius' IFC has grown considerably over a short period due to the favourable fiscal laws of Mauritius and the DTA with India. Cross border investment and structuring investment from Mauritius into Africa, amounting annually to an excess of USD 19 billion.

The Government of Mauritius is keen to further develop and expand the sector for it to remain an engine of growth and employment creation in line within its strategic vision to move Mauritius from a middle-income country to a high-income country. The key to further expansion of the Mauritius international financial services industry resides in market and product diversification and capacity building. With a view to achieve these objectives, the government have taken the following actions:

- The renegotiation of the India-Mauritius DTAA has finally brought about the much-needed certainty for global investors in the Mauritian global business sector. Having achieved this, the key players within the sector must take the bull by the horn by accepting change and accordingly adopting strong commercial acumen and swiftly adapt to the new reality of the erosion of the India DTAA-driven competitive advantage. The sector must look for new opportunities and innovate.
- The Financial Services Promotion Authority has been re-activated;
- Enhance market access in regards to air connectivity in the wake of the Air Corridor initiatives and the continued opening of our air access to international airlines;
- There are double taxation agreements and IPPAs network being extended and has been signed with several number of African countries;
- The national budget 2016-2017 introduce number of measures to increase substance and value creation as an international financial

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centre by allowing GBC 2 licence holders to invest on the stock exchange, the entrant of global law firms, as well as tax incentives to licensed global headquarters and global business operators in the treasury, asset management, facilitation of overseas family corporation offices and Foreign Ultra High Net Worth Individuals investing a minimum of USD 25 Million in Mauritius.

The financial services sector is also being reshaped post DTA-India with new commodity exchange for gold, diamond and precious metals. The introduction of a "Regulatory Sandbox License" to allow companies to invest in innovative projects subject to terms and conditions with the aim of speeding strategic investments. Under this new scheme, Mauritius is aiming to position itself as a hub for the fintech sector. Mauritius is also keeping abreast of and meeting international standards and norms and has adopted a solid regulatory and supervisory framework including but not least, compliance with FATCA, CRS (Common Reporting Standards) for Automatic Exchange of Information in 2017 and MiFID as well as the Mauritius Stock Exchange being HMRC (UK) approved.

Mauritius is positioning itself as a regional centre of excellence for international arbitration for Africa and Indian Ocean region. There is a locally established Permanent Court of Arbitration offering dispute settlement procedure and forum to all economic entities, either domestic or offshore. In 2008, Mauritius enacted the Mauritian International Arbitration Act in 2008 (amended in 2013), it is based on the UNCITRAL Model Law 2006. In 2011, the LCIA-MIAC Arbitration Centre – a neutral, independent arbitral institution was also established. In 2015, Mauritius become a signatory member of the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, known as the Mauritius Convention on Transparency. Mauritius is also signatory to the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral awards. It provides for any awards to be made an order of court and to be enforceable in foreign jurisdictions. Accordingly, section 181(2) the Mauritian Companies Act 2001, entitles any Mauritian Company (both domestic and offshore companies) to conclude agreement and to be bound by any foreign law of choice. Contracting parties are free to choose their contracting law (the laws United Kingdom or otherwise) as well as the choice of alternative forum for the resolution

of dispute. In the wake of recent world events like Brexit and scandals such as panama papers and global downturn in India, China and other countries, the international community including the OECD is being critical of low tax regimes countries viewed as an unfair competition for erosion of their own country's tax base.

Mauritius has had its fair share of criticism over the years. The argument put forward by the Mauritian authorities and local stakeholders is that Mauritius cannot be viewed as a tax haven when the country has adopted all of the internationally recognised standards and best practices in tax matters, proung a model for its jurisdiction based on substance. The country also adopted an uncomplicated and favourable tax legislation similar to countries in Europe, i.e, "a flat system of taxation based a real multi sectoral economic model".

In the context of the phasing out of the competitive advantage for tax optimisation facilities to cross border investors enjoyed by Mauritius Financial Services Sector via the India DTAA, Mauritius must explore for alternative value creation such as among others, but not least:

- listing of African funds and Indian debt instruments on the Stock Exchange of Mauritius (SEM)
- Mauritius could position itself as a leading centre for the registration of "intellectual property", "trademarks" and "patents".

In light of the above issues facing the Mauritian Financial services sector, the government of Mauritius must strive to ensure that the transformation of the sector is focused on a strategy based on diversification of both markets and products and also safeguard its reputation as a jurisdiction of substance and ensure the continuous reliability of its financial institutions. Integrity and honesty must prevail among the professionals and other key players within the industry to enhance trust and confidence with the international community and global investors. The proximity of Mauritius to African countries must not be taken for granted as those countries have real needs in terms of capital for their investment projects and accordingly this presents a huge opportunity for Mauritius to tap into. The emerging countries in Asia also represent an opportunity for growth for the Mauritian financial services sector.

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