



FINANCE (MISCELLANEOUS PROVISIONS) BILL 2021

Summary for businesses - 20 July 2021

Introduction

An overview of the proposals made in the Finance Bill 2021

The objective of the Finance Bill is to provide for the implementation of measures announced in the Budget Speech 2021-2022. This note summarises its key proposals, which will be debated and voted at the National Assembly in the coming weeks. It aims to provide a basic understanding of the proposed measures that are relevant to businesses. It does not cover every aspect of the Bill. Nor does it amount to legal or other advice.





Areas covered

Income Tax & VAT

Banking & Financial Services

Real Estate & Construction

Employment

Corporate & Insolvency

Regulatory & Compliance

Miscellaneous



Income Tax & VAT



Manufacturing companies

The Bill proposes to allow a manufacturing company whose annual turnover exceeds MUR 100 million in an income year to deduct 110% of its expenditure on products manufactures by SMEs whose turnover does not exceed MUR 50 million.

A manufacturing company will also have the option to deduct from its gross income, 200% of the amount spent on market research and product development for the African market, or to amortise that expenditure.

The current position under the Income Tax Act is that a manufacturing company is entitled to a tax credit of 15% of the cost of new plant and machinery (excluding motor cars) in the year of purchase and in two subsequent income years. The Bill proposes to allow a manufacturing company, whose the tax credit exceeds the amount of tax otherwise payable in an income year, to carry forward the excess credit to the following income year over a period of up to 10 consecutive income years.





Medical, biotechnology and pharmaceutical manufacturing companies

A company in this category will be subject to a 3% tax rate, provided that it holds an Investment Certificate issued by the EDB, subject to certain conditions.

A company in this category will be entitled to a tax credit equivalent to 100% of its capital expenditure on the acquisition of patents. Where the tax credit exceeds the amount of income tax otherwise payable, the company will be entitled to carry forward the excess over a period of up to 5 years. However, if the company ceases the activity or sells or otherwise transfers the patent within a period of 5 years after the income year in which it claimed the tax credit, the company will have to refund the tax credit.

In addition to the tax credit in respect of the acquisition of patents, the company will continue to be entitled to amortise the value of the patents in its tax accounts.



● Health institution

A company that is registered as a health institution under the Private Health Institutions Act, will be entitled to deduct from its gross income in a given year, 200% of the amount of any direct expenditure incurred in that income year relating to international accreditation.

● Higher education

A higher education institution set up in Mauritius and registered under the Higher Education Act will be subject to a 3% corporate tax rate.

● Specialised software and systems

The Bill proposes to allow a company to deduct from its gross income 200% of the amount spent on the acquisition of certain specialised software and systems to be provided in regulations. The company will, however, need to choose between claiming such deduction or the annual allowance for depreciation on such capital expenditure.

● R&D

The existing position under the Income Tax Act is that a person who has incurred expenditure relating to research and development directly related to their existing trade or business during the period 1 July 2017 to 30 June 2022 is entitled to a double deduction of that expenditure, provided that the research and development is carried out in Mauritius and that the person does not also claim amortisation of that capital expenditure. The Bill proposes to extend this double deduction allowance to 30 June 2027.



Trusts and Foundations

The Income Tax currently provides a tax exemption to (i) purpose trusts that are recognised under the Trusts Act and whose purpose is carried out outside Mauritius and (ii) Foundations, where the settlors / founders (as the case may be) and beneficiaries are non-residents or hold a Global Business Licence. The Bill proposes to remove that exemption, whilst nevertheless allowing any eligible trust or Foundation that is set up before 30 June 2021 to continue to benefit from the exemption until the income year 2023-2024. This grandfathering clause, however, will not apply in respect of the acquisition or creation of intellectual property assets after 30 June 2021. The grandfathering provision will also not apply in respect of income derived from specific assets (to be determined by the MRA) acquired or projects started after 30 June 2021.

Family Offices

The Bill proposes to exempt from income tax a corporation holding a Family Office (Single) or Family Office (Multiple) Licence issued by the FSC on or after 1 September 2016, provided that the income is derived from the activities covered under that licence and the corporation satisfies the conditions of minimum employment and relating to the substance of its activities as specified by the FSC. The exemption will be for a period of 10 income years from the income year in which the licence was granted.

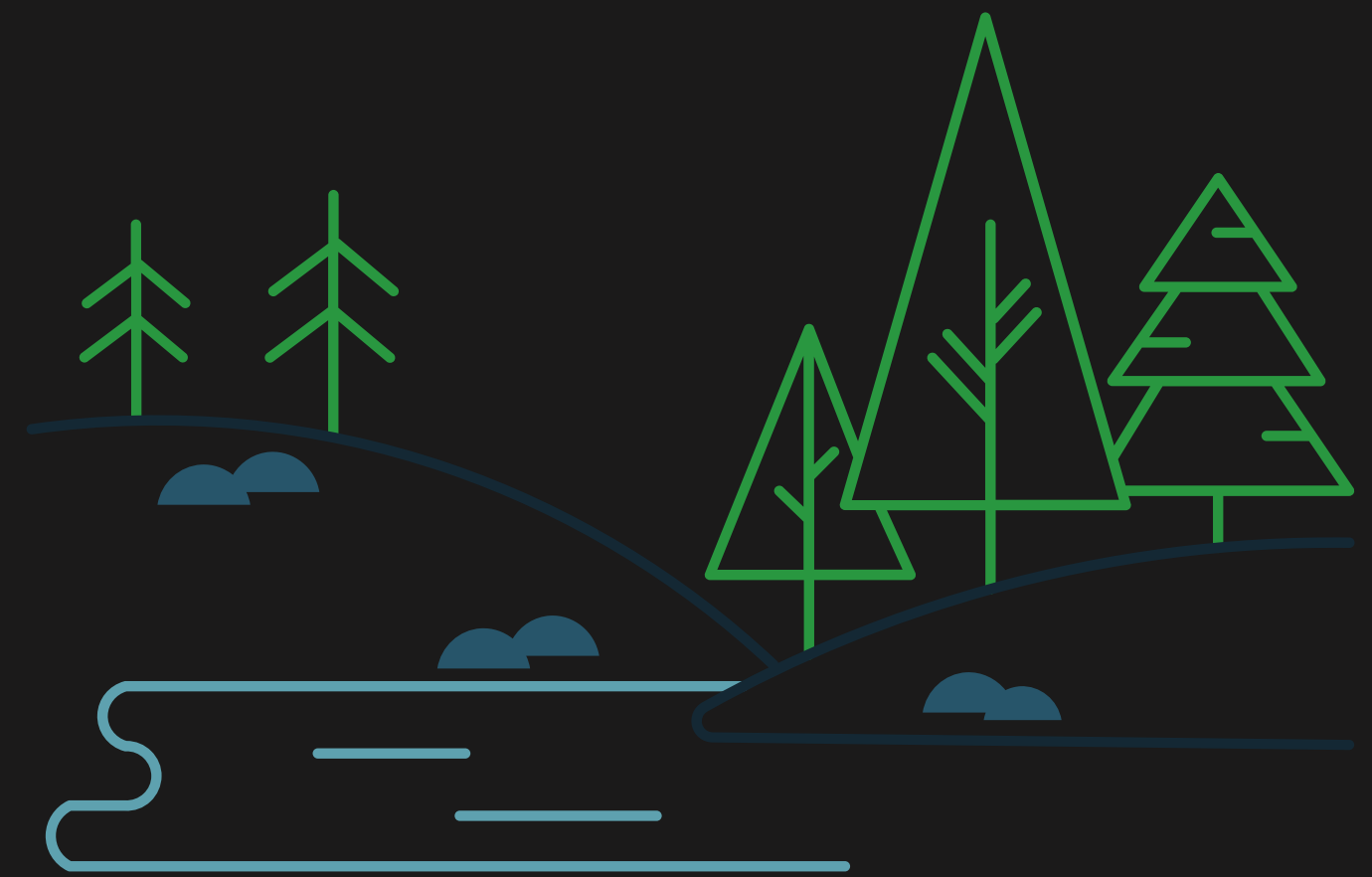
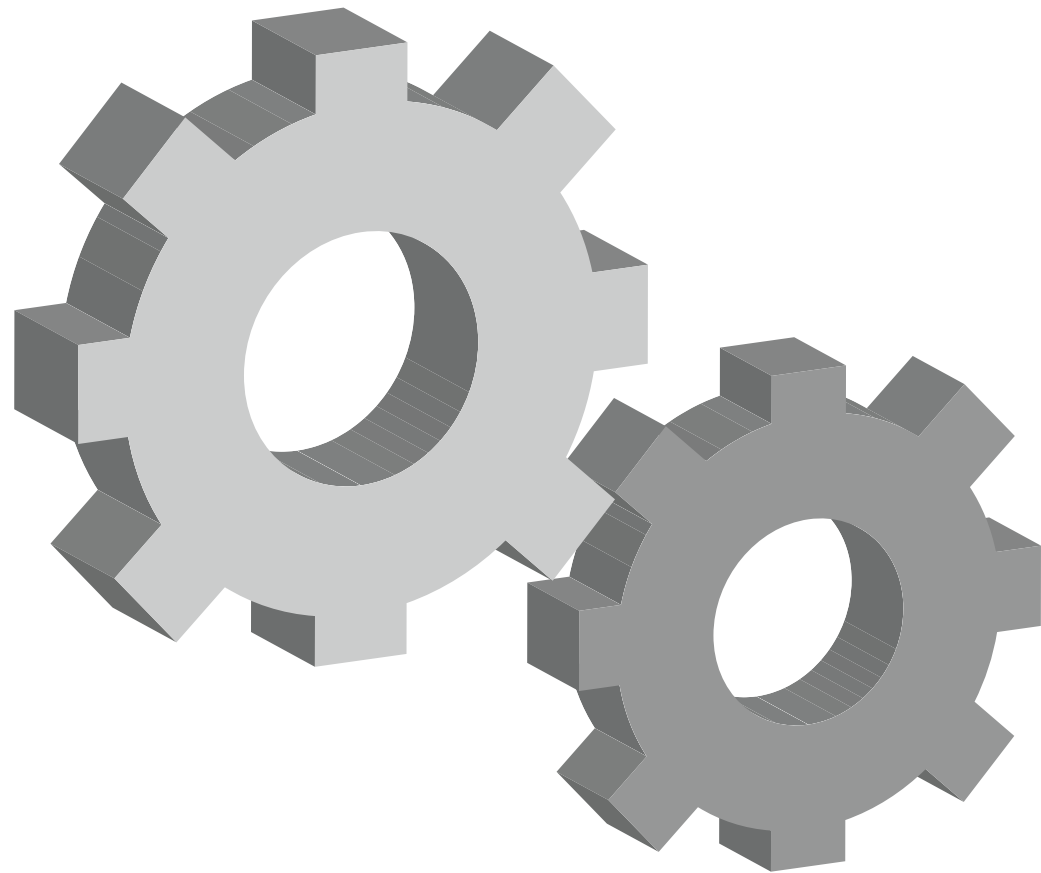
Investment Companies

The Bill proposes to exempt from income tax a company incorporated on or after 1 July 2021 and holding an Investment Certificate issued by the EDB. The exemption will be for a period of 8 succeeding years from the income year in which the company is incorporated.



Exempt income

The income derived from certain activities (listed in Sub-Part C of Part II of the Second Schedule) will no longer be exempt from income tax. However, the exemption will continue to apply in respect of companies that have already started benefitting from them.



Corporate Social Responsibility

The current position under the Income Tax Act is that subject to certain existing exceptions, a company is required to set up an annual CSR Fund equivalent to 2% of its chargeable income of the preceding year. The Bill proposes to exempt a company that has elected to pay a presumptive tax for the preceding income year from the requirement to set up a CSR Fund.



Personal Income Tax (1/2)

Donations to charitable institution

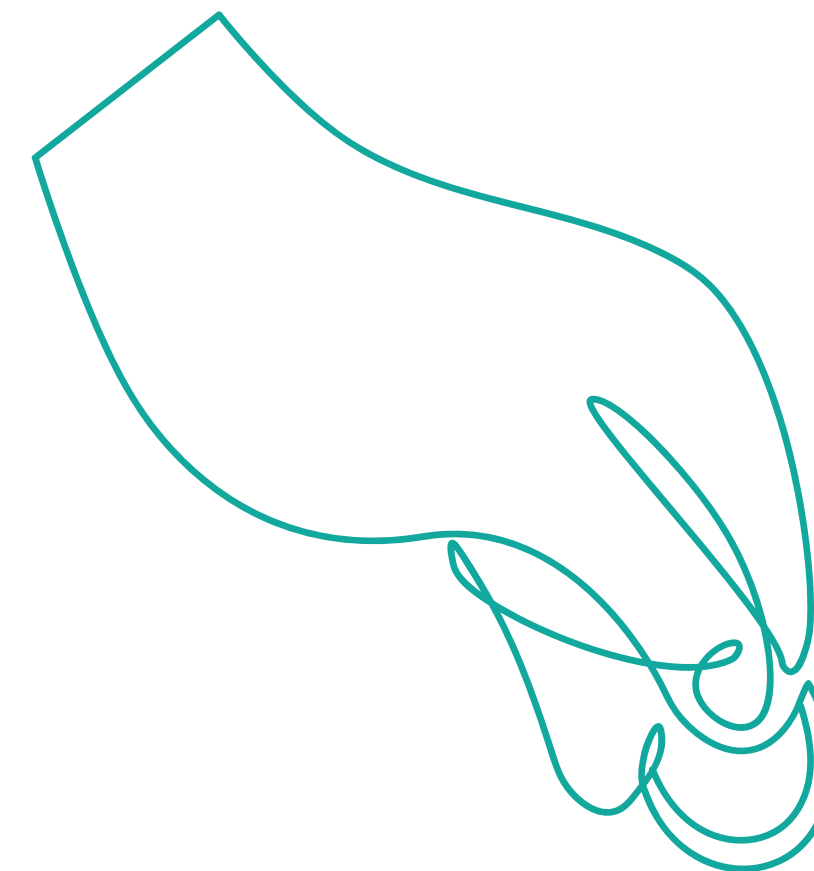
The Bill proposes to allow an individual who donates money to a charitable institution to deduct up to MUR 30,000 of these donations from their net income. For the purpose of deciding whether the recipient is a charitable institution, the MRA will consider whether its objects are of a public character, do not yield any profits to its members and are exclusively for the (i) advancement of religion, (ii) advancement of education, (iii) relief of poverty, (iv) sickness and disability, (v) protection of environment, (vi) advancement of human rights and fundamental freedoms, or (vii) promotion of any other public object beneficial to the community. The charitable institution may be one that carries out those objects either in or outside of Mauritius.

COVID-19 Vaccination Programme Fund

An individual who contributes to the National COVID-19 Vaccination Programme Fund in the income year ending 30 June 2021 will be entitled to deduct the full amount of such contribution from his net income.

Individual pension scheme

An individual who contributes to a pension scheme approved by the FSC under the Insurance Act for the provision of a pension for himself will be entitled to deduct annually up to MUR 30,000 in respect of these contributions from his net income.



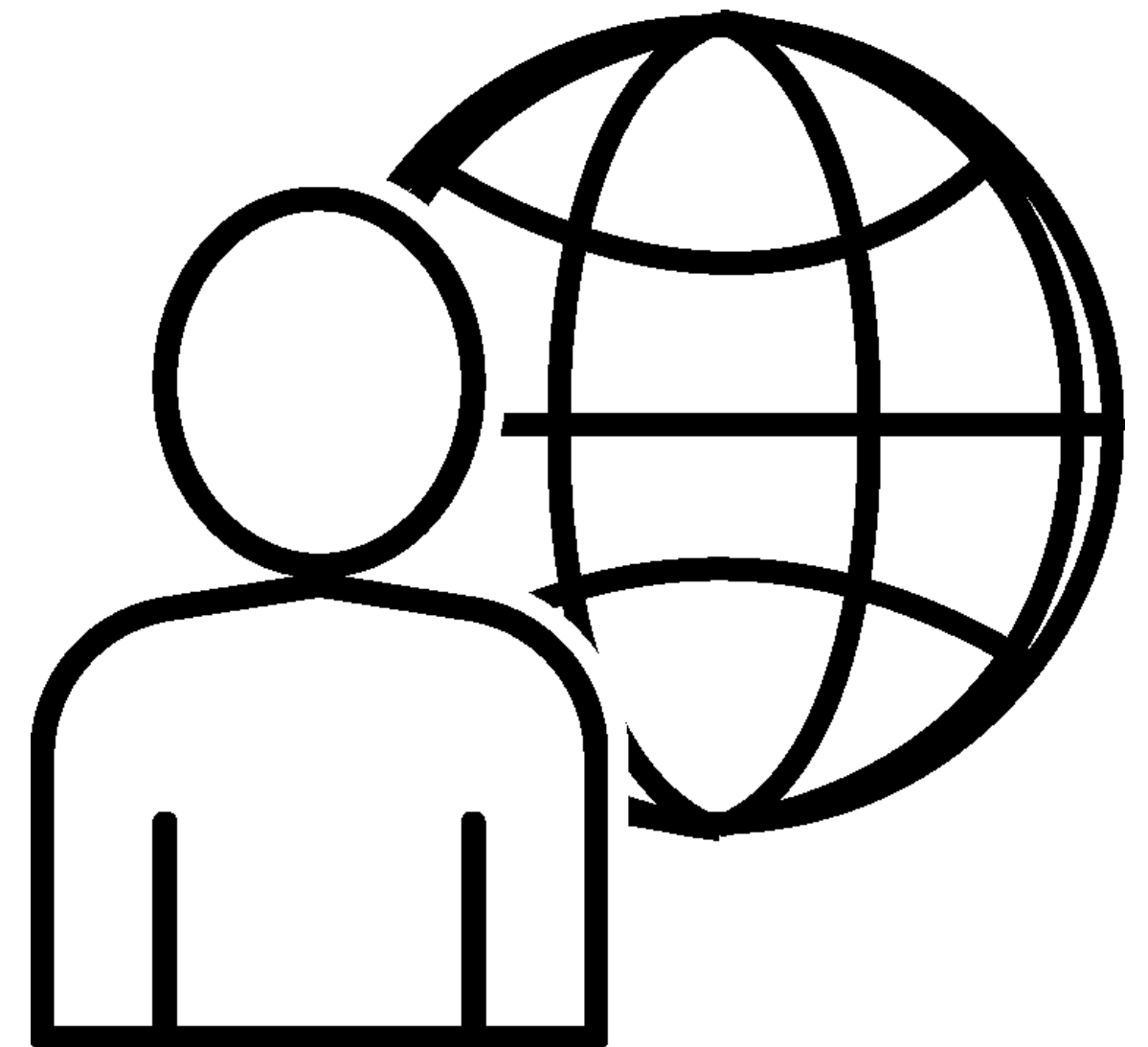
Personal Income Tax (2/2)

Premium visa

An individual who works remotely from Mauritius on a premium visa (issued upon recommendation of the EDB) will be deemed to derive income in Mauritius if that income is remitted in Mauritius. That person will also be liable to income tax on deposits made in a bank account in Mauritius unless they declare that they have paid the required tax on that income in their country of origin or residence.

Asset/Fund Manager

The Bill proposes to extend the period of exemption in respect of the income of an employee, who is issued with an Asset Manager Certificate, Fund Manager Certificate or an Asset or Fund Manager Certificate. The extension is from 5 years to 10 years. It will apply to an employee who manages an asset base of at least USD 50 million (as opposed to the current minimum threshold of USD 100 million).



A close-up photograph of a person's hand holding a silver pen, poised to write on a document. The hand is adorned with a silver bracelet and has manicured nails. In the background, a silver laptop and other office supplies are visible on a dark desk.

Financial assistance to employers (1/2)

Government Wage Assistance Scheme (GWAS)

The Income Tax provides that where an employer terminates the employment of an employee in the month in which they have benefitted from the GWAS in respect of that employee, the employer will not be entitled to benefit from the GWAS in any subsequent month. However, the Bill proposes to re-allow such an employer to benefit from the GWAS from March 2021, provided that it (a) is an SME (whose turnover for 2020 did not exceed MUR 50 million) and (b) does not operate in the tourism industry. If that SME benefits from the GWAS in respect of an employee in or after March 2021 and terminates the employment of that employee in during that period, the SME will no longer be entitled to benefit from the GWAS.



Financial assistance to employers (2/2)

Financial assistance for payment of salary compensation 2021

The MRA will pay to every SME (whose turnover did not exceed MUR 50 million for the year 2020) the compensation that they are required to pay to employees as additional remuneration for compensation for increase in cost of living, that is, MUR 375 in respect of employees earning up to MUR 50,375 in monthly basic salary inclusive of the additional remuneration (except for export enterprises, where the allowance will amount to MUR 235 and an eligible employee is one earning up to MUR 50,235 in monthly basic salary). The allowance will be paid for the period of January 2021 to June 2022.

The employer must make an application for the assistance within 3 months from end of the applicable month.

The compensation is not payable if the employer has not paid CSG or social contribution in respect of a given period. Nor is it payable in respect of a month for which the employer has benefitted from the Government Wage Assistance Scheme.



Value Added Tax (VAT)

VAT refund on residential property

The maximum amount of VAT refund on the construction of a residential building or the purchase of a residential apartment or house from a property developer will be reduced from MUR 500,000 to MUR 300,000.

Nursing / residential care services

Services provided in a residential care home registered with the Ministry of Social Security are currently exempted from VAT. The Bill proposes to instead make all nursing care and residential care services zero-rated for VAT purposes.

Zero-rated good and services

The Bill proposes to include the following items in the category of goods that are zero-rated for VAT purposes: (a) live animals for training or breeding purposes (including poultry) and (b) boiled or steamed dumplings (including uncooked) supplied to final consumers.

Investment Certificate issued by EDB

The Bill proposes to require a person to be issued with an Investment Certificate in order to benefit from VAT exemptions in respect of certain activities, such as the construction of certain purpose-built buildings or facilities and the acquisition of plant, machinery and equipment for the same activities.





Settlement of Tax Arrears

Tax arrears means tax, penalty and interest due under an assessment issued or a return submitted under the Income Tax Act, the Value Added Tax Act or the Gambling Regulatory Authority Act.

The Bill proposes to waive penalty and interest on income tax and VAT that is outstanding as at 31 October 2021, provided that such tax is fully paid by 31 December 2021. An application for the waiver must be made to the MRA by 30 June 2021. However, in the case of an SME with tax arrears as at 11 June 2021, the application for the waiver must be made by 31 December 2021 and the outstanding amount must be paid by 28 June 2022.

Further, where an employer has outstanding payments in respect of the Training Levy as at 31 October 2020 and settles those payments by 31 March 2022, the employer can apply for a waiver of 80% of the surcharge on the arrears. The application must be made by 30 June 2021.



Tax assessments

The current legislation provides that the MRA cannot raise tax assessments (income tax and VAT) in respect of a period that is earlier than 4 income years, unless it obtains authorisation from the Independent Tax Panel on certain grounds. The Bill proposes to discontinue the Independent Tax Panel and to allow the MRA to raise such assessments where *inter alia* it considers that a return has not been submitted or where there is fraud.



Banking & Financial Services

Banking

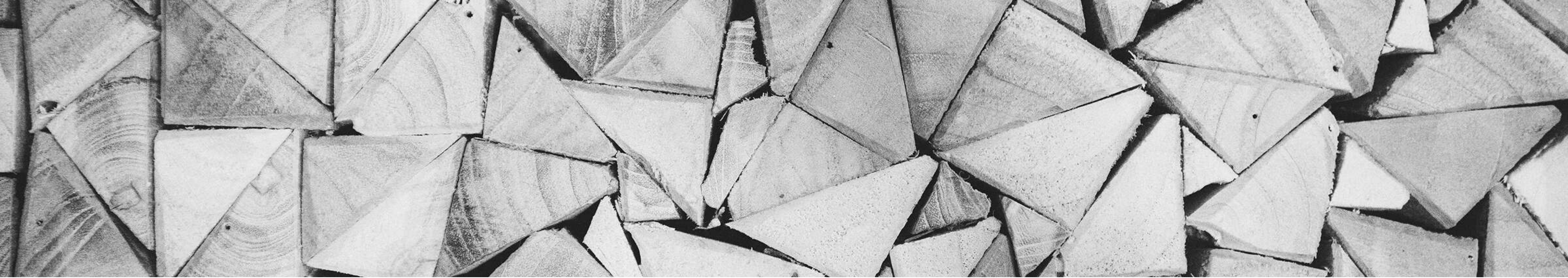
Credit score: The Bill proposes to allow the Credit Scoring Services Agency to provide credit scores in respect of any person (as opposed to applicants for credit only). The Credit Information Bureau established by the BOM may also require institutions to furnish information on credit scores.

Digital currency: The BOM may make rules to provide for a framework under which it may issue digital currency, which may be held or used by the public. The BOM may also, for the purpose of issuing digital currency, open accounts and accept deposits from such persons as it may determine.

Sustainable bonds: The BOM may issue guides, guidelines, directives, rules or instructions regarding the framework for the issue of sustainable bonds (including blue and green bonds).

National Payment Systems Committee: Introduction of a new advisory committee to the BOM in the exercise of its oversight function under the National Payments System Act.





Central KYC and Accounts Registry

The Central KYC Registry, established by the BOM for the purpose of collecting KYC records submitted by customers to institutions, will be known as the Central KYC and Accounts Registry. Its functions include the collection of KYC records and information on accounts (other than the balance and amount held in such accounts) maintained by customers.

KYC institutions (i.e. licensees of the BOM and the FSC required to identify and verify the identity of its customers under the Financial Intelligence and Anti-Money Laundering Act 2002 or submit information on accounts to the Central KYC and Accounts Registry) must inform customers that their account information (other than the balance and amount held therein) will be submitted to the Central KYC and Accounts Registry.



Fintech & Regtech (1/2)

A financial institution, licensee under the National Payment Systems Act 2018 or the FSC, or any body corporate may apply to the BOM or FSC (as appropriate) for a **regulatory sandbox authorisation**. This authorisation allows the institution to experiment with fintech, regtech or other innovation-driven financial services falling within the purview of the BOM or the FSC. Where the BOM or the FSC (as appropriate) is satisfied of the successful experimentation, the holder of the authorisation may submit an application for the issuance of the appropriate licence or authorisation.

- “**fintech**” is defined as technologically enabled financial innovations which could result in new business models, applications, processes or products with an associated material effect on financial markets and institutions and the provision of financial services.
- “**regtech**” is defined as meaning the innovative technology solutions utilised by financial institutions and other regulated entities to facilitate compliance with regulatory rules and requirements.



Fintech & Regtech (2/2)

The Bill further proposes to confer the power on the BOM and the FSC to establish (each by itself or through a collaboration with a financial institution or a public or private sector agency) a **fintech innovation hub and digital lab** to *inter alia* (a) foster innovation and the use of emerging technologies to facilitate the provision of banking and payment solutions and other related services falling under its purview; (b) identify critical trends in technology affecting the banking and payment services sectors and develop in-depth insights into these technologies; (c) provide a testing environment for fintech to develop, test, prototype and operate products or services; and (d) establish an international networking platform for experts on innovative technologies related to the banking and payment services sectors to promote research, exchange of views and knowledge-sharing.





Financial Services (1/2)


The exemption under section 23(1A) of the Financial Services Act, which previously allowed licensees to transfer shares or legal or beneficial interest of less than 5% and which did not result in a change of control of the licensee without the prior approval of the Financial Services Commission, has been extended to cover issues of shares or legal or beneficial interest, subject to the same conditions. Therefore, issues of shares or legal or beneficial interest of less than 5% and which do not result in a change of control of the licensee must simply be notified to the Financial Services Commission.

Section 23(4) of the Financial Services Act exempted certain “classes of licensees” from obtaining the prior approval of the Financial Services Commission in respect of issues or transfers of shares which do not carry voting rights. The Bill proposes to clarify that “class of licensees” means in an exhaustive manner collective investment schemes or closed-end funds authorised under the Securities Act and reporting issuers registered under the Securities Act which do not hold an activity license for licensable activities but whose securities are listed on a Mauritian securities exchange.




The header image shows a blurred background of a financial trading screen. On the left, there's a table of data with columns of numbers. On the right, there's a line graph showing price fluctuations over time. The title 'Financial Services (2/2)' is overlaid in white text on the left side of the image.

Financial Services (2/2)



Section 60 of the Financial Services Act previously allowed decisions of the Review Panel to be altered or set aside, or new decisions to be taken (subject to certain conditions), by a self-regulatory organisation declared or recognised by the FSC. The Bill clarifies that such self-regulatory organisations no longer fall under the purview of this section.



The Bill proposes to extend the FSC's power to issue certificates of good standing to any licensee (as opposed to only holders of global business licence or authorised company licence). The Bill also clarifies that a law practitioner or an accounting firm may submit an application for the issue of such certificate, on behalf of, and with the written consent of, the licensee.



Insurance Act (1/2)

- For the purpose of promoting confidence in the insurance industry and ensuring the fair treatment of policy holders, the FSC will establish a National Insurance Claims Database (NICD) and require an insurer that provides motor insurance business to furnish certain information. The object of the NICD is to collect various data and information relating to the different actors involved in the insurance business. The idea behind creating such a database is to maintain a fair, safe and efficient insurance market.
- The Insurance Act will be amended to require an insurer to ensure at all times that its insurance agents are in good standing in terms of fees and reporting obligations.



- Every company that is licensed to act as an insurance agent and which is a small private company as defined in the Companies Act, and every natural person who is licensed to act as insurance agent, will be required to submit to the FSC, not later than 3 months after the expiry of each balance sheet date and with reference to that year, a financial summary containing the information specified in the new Fifth Schedule to the Insurance Act. That new Schedule set out inter alia a Statement of Profit and Loss and Other Comprehensive Income, which the insurance agent will be required to fill out.
- The Bill proposes to confer power on the Minister of Financial Services to make regulations to provide for the licensing of other insurance professionals and the conduct of their business.



Insurance Act (2/2)

- The FSC may issue Rules to provide for an application by an insurer of the bonus and malus adjustments to the pricing of premiums.
- The FSC may, by rules or otherwise, exempt a person or any class of persons from the requirements to *inter-alia* submit its financial statements and returns as provided under section 72 of the Insurance Act. For the avoidance of doubt, the FSC may exercise that discretion in relation to any past obligations under section 72. The exemption will be subject to such terms and conditions as the FSC may determine.



Borrower Protection

The Borrower Protection Act regulates credit agreements for less than MUR 3 million. The Act provides that where a borrower has given security to a lender in the form of a mortgage over immovable property, the lender cannot execute that mortgage for the repayment of any outstanding amount without first reporting the matter to the Commissioner for the Protection of Borrowers. The Bill proposes to require the lender to follow the same process where the borrower has created a fixed charge in immovable property in favour of the lender, and the lender intends to execute that charge to recover the debt owed by the borrower.





Ombudsperson for Financial Services

The Bill proposes to clarify that the Ombudsperson may, for the purposes of the Ombudsperson for Financial Services Act, issue, in such form and manner as he may determine, such instructions and guidelines to, or impose such requirements on, financial institutions specifically. The new proposed subsection 5(3)(iv) also provides that the Ombudsperson may publish his decisions or awards in such form and manner as he may determine.

All timeframes concerning complaints made to the Ombudsperson for Financial Services under section 7 will be amended from 10 days to 30 days. The requirement for a complainant to waive his right to initiate civil proceedings in respect of the subject-matter of the complaint will be repealed.

The Bill further proposes to introduce an additional ground pursuant to which the Ombudsperson may at any stage, reject a complaint where, in his opinion the complainant does not have sufficient interest in the matter.



Real Estate & Construction





Build Operate Transfer (BOT) Projects Act

In relation to BOT projects having a commercial component in excess of 80% of the estimated project value, the Bill proposes to remove from the Central Procurement Board the responsibility for the procurement selection process. The contracting authority will itself have that responsibility.

Where the services of a technical advisory firm are retained for BOT projects, the firm may be remunerated by the BOT Projects Unit, or the private party or both.

Prior to seeking approval of the Cabinet for a BOT project, the contracting authority must ensure that the project has been structured with the assistance of the BOT Projects Unit to ensure value for money. Another function delegated to the contracting authority is to carry out the procurement exercise to select a private party for a project below the prescribed threshold together with the assistance of the BOT Projects Unit or a consultant.

The BOT Projects Unit is set up within the Procurement Policy Office. As provided under the Public - Private Partnership Act (“PPPA”), there is also a BOT Projects Unit that deals with public-private partnership projects. These are two different units. The use of the term ‘BOT Projects Unit’ may lead to confusion as it is used under both enactments - however, these units are distinct inasmuch as they deal with different projects governed by different legislation. In addition, the BOT Projects Act provides that the PPPA shall not be applicable to any BOT project that is governed by the BOT Projects Act.





Land Transfer Tax & Registration Duty (1/2)

VAT exclusion

The Bill proposes to exclude VAT from the value of property on which duties and taxes are levied under the Land (Duties & Taxes) Act and the Registration Duty Act.

IRS / RES

The current position under the Land (Duties & Taxes) Act is that in land transfer tax in respect of the transfer of property under IRS or ERS is the higher of (i) the rate specified in Part A of the Second Schedule or (ii) USD 50,000 (for an IRS) or USD 25,000 (for an ERS). The Bill proposes to remove the minimum thresholds of USD 50,000 and USD 25,000.

Built-up hotel on State land

The Bill proposes to reduce the tax that applies on the transfer of leasehold rights in State land where there is a built-up hotel on that land. The tax is reduced from 20% to 10%. The levy is computed on the value of the open market value of the leasehold rights exclusive of VAT.

New exemptions

The Bill proposes to exempt a person from certain taxes under the Land (Duties & Taxes) Act in respect of land purchased for livestock production and animal breeding, manufacture of pharmaceutical products or medical devices, conducting clinical and pre-clinical trials, construction or expansion of a student campus, a residential unit in a project developed on State land under the Property Development Scheme relating to senior living, and the setting up of a company to conduct an activity authorised under an Investment Certificate issued by the EDB.



Land Transfer Tax & Registration Duty (2/2)

First time buyers

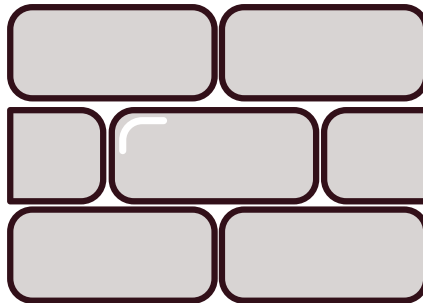
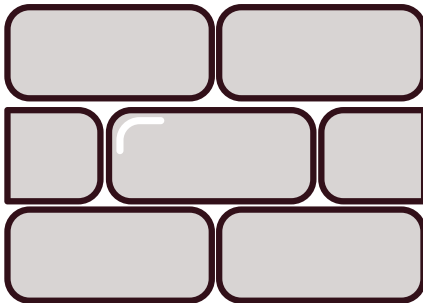
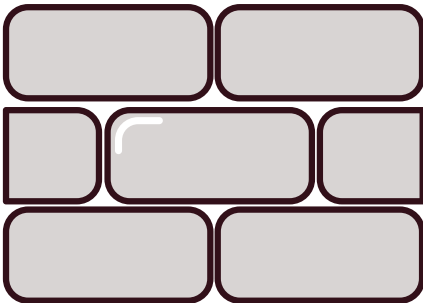
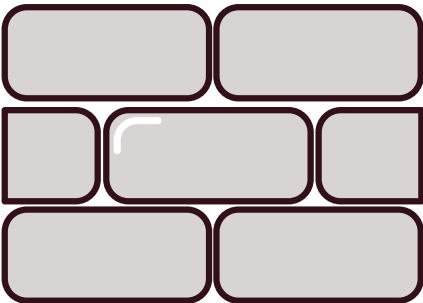
The Bill proposes to extend the first-time buyers' exemption from registration duty to cases where the value of the property exceeds MUR 5 million. The exemption will, however, only apply on the first MUR 5 million of the cost of the built-up residential property.

Home Ownership Scheme

Under this new proposed scheme, the buyer of eligible property will be refunded 5% of the declared value of the property, the refund being capped at MUR 500,000. The deed of transfer must be signed and registered between 1 July 2021 and 30 June 2022, or thereafter at any time before 30 June 2024 if a document for the reservation of the property or its conditional transfer is signed between 1 July 2021 and 30 June 2022. The buyer must be a Mauritian citizen. The Bill sets out further conditions of eligibility to the scheme, which are not reproduced in this summary.

Home Loan Payment Scheme

Under this new proposed scheme, the Registrar-General will pay to an eligible borrower 5% of the amount disbursed under a secured housing loan, which is contracted for the construction of a residence on freehold bare land or on top of an existing building. The maximum amount that will be paid under the scheme is MUR 500,000. The scheme is only applicable where the deed witnessing the loan is signed and registered between 1 July 2021 and 30 June 2022. The buyer must be a Mauritian citizen. The Bill sets out further conditions of eligibility to the scheme, which are not reproduced in this summary.



● Construction Industry Development Board Act

The grading designation of contractors and the associated value of contract (exclusive of VAT) is proposed to be amended to a new grading system which will only include the following: (i) Large – above MUR 500 million; (ii) Medium – up to MUR 500 million; and (iii) Small – up to MUR 10 million.

● Construction of drains

In respect of authorisations for construction of drains in privately owned land where storm water accumulates and represents flooding risks, the Bill proposes to confer the power to authorise such construction to the local authority, the National Development Unit through its Ministry, the Road Development Authority and such other public body as the Land Drainage Authority may designate in writing.

The Land Drainage Authority Act is proposed to be amended to cater for the definition of “drainage infrastructure” which means man-made drains, culverts, bridges, fords, swales, retention ponds and cut-off drains.





● Real Estate Agent Authority Act

The Bill proposes to clarify that a person who carries out a real estate transaction in the normal course of business is deemed to be a real estate agent for the purposes of the Real Estate Agent Authority Act, even where he is the owner or part owner of the real estate.

Further, where a certificate of registration is issued to a real estate agent, the latter shall within 5 working days of its registration apply for registration with the FIU. Failure to do so will amount to an offence.

● Protected Cells Companies Act

The Bill proposes to allow companies engaged in real estate development to structure a Protected Cell Company to undertake those activities.

● Non-payment of rent

Non-payment of rent for the months of March 2021 to August 2021 will not amount to a breach of a lease agreement, provided that: (i) half of the rent for those months is paid by 31 December 2021; and (ii) the other half is paid in 12 equal monthly instalments from 31 January 2022 to 31 December 2022.



Non-Citizens (Property Restriction) Act (1/2)

A non-citizen who obtains a stake or interest in, or the continuous use of, the property of any entity, whether corporate or unincorporated, will be deemed to acquire, hold or purchase such property. The creation of security over property will, however, not fall within the scope of obtaining a stake or interest in that property.

The Bill proposes to classify the creation of security over property as a disposal of that property.

The definition of “shareholder” is proposed to be amended to reflect that a shareholder will include an association or body of persons, whether corporate or unincorporated which is a non-citizen.



Non-Citizens (Property Restriction) Act (2/2)

The requirement for a non-citizen to hold property without the need for a certificate is proposed to be amended to non-renewable lease agreements only for industrial or commercial purposes for a term not exceeding 20 years.

No certificate will be required where a non-citizen or non-resident wishes to dispose of (i) property held residence purposes under the Invest Hotel Scheme, Property Development Scheme or Smart City Scheme or in a building of at least ground + 2 floors purchased for not less than MUR 6 million (upon production of the appropriate authorisation from the Economic Development Board) or the repealed IRS and RES schemes; (ii) immovable property, right to immovable property or part of a building for business purposes upon production of an authorisation from the Economic Development Board; and (iii) plot of service land for construction of a residence which was acquired from a company holding a certificate under the Smart City Scheme or Property Development Scheme.



Employment

● **Compromise agreements**

If a worker and an employer have agreed to resolve a dispute concerning termination of employment or non-payment or short payment of remuneration, the worker and the employer will be required to enter into a compromise agreement. In other words, if the parties do not enter into a compromise agreement, the inference is that their dispute has not been resolved.

● **Atypical worker**

The Bill proposes to further provide that an atypical worker does not include (i) a self-employed who holds a business registration number issued by the relevant authorities and personally operates a business or trade on his own account or whose business or trade activity is his sole or main source of income or who employs another person to execute his work agreement, (ii) any other person whose working status is that of a person operating his own business or trade, and (iii) a job contractor.

● **Cost of living allowance**

The additional remuneration for compensation for increase in cost of living is no longer payable to an employee who earns more than MUR 600,000 in annual basic salary.

● **End of year bonus**

The Bill proposes to require an employer to pay to a prorated end of year bonus to a worker, who is employed on a fixed-term contract for part of the year, and that contract comes to an end.

● **Travelling allowance**

The Bill proposes to amend the WRA to provide that a worker's travelling allowance will be the equivalent of a return bus fare or light rail fare, as the case may be.



Remuneration and leave related to COVID-19 vaccination or PT-PCR test

Where a worker employed in a given institution cannot have access to his place of work pursuant to the Quarantine Act 2020 or any regulations made thereunder, the conditions relating to the payment of remuneration or grant of leave to a worker will be prescribed in regulations. Such institution would be (a) a crèche, a day-care centre, a kindergarten; (b) a special education needs institution, a pre-primary school, a primary school, a private secondary school, a tertiary institution; (c) a vocational training centre and any other training institution; and (d) such other institution as may be prescribed.

Limitation period for termination of employment

The Bill proposes to amend the limitation period for termination of employment provided in the WRA. Where the employer terminates an employee's employment for an alleged misconduct that is the subject of criminal proceedings, the termination must be effected not later than 7 days after the completion of the hearing. Similarly, where the termination is for poor performance, it must be effected not later than 7 days after the completion of the hearing provided to the employee.

Disciplinary hearing

The WRA currently provides that parties may agree to extend the period of 30 days for the completion of a disciplinary hearing. The Bill proposes to add that notwithstanding such extension, the disciplinary hearing should be completed not later than 60 days of the date of the first oral hearing.

Exclusion of continuous employment

The Bill proposes to clarify that where an employee earns basic wage or salary in excess of MUR 600,000 in a year, and is employed successively under one or more contracts of a determinate duration, that employee will not be considered to be in continuous employment.



Exclusion of severance allowance: Where a worker whose basic wage or salary exceeds MUR 600,000 in a year, is paid (i) at the end of every period of 12 months or (ii) at the end of each contract of employment of a determinate duration, a gratuity, compensation or such other payment, by whatever name called, in lieu of pension or in respect of his length of service, the worker shall not be entitled to the payment of any severance allowance on the expiry of each contract or the last contract.

Redundancy: The WRA currently provides that an employer cannot make any redundancy unless it has unsuccessfully applied for financial assistance from one of the available schemes set up by the Government. The Bill proposes to remove that requirement and instead require the employer to satisfy the Redundancy Board that (i) the enterprise is over-indebted and not economically viable and any further debt would increase the risk of the enterprise being insolvent; and (ii) the restructuring may enable the enterprise to manage the repayment of its debts without being insolvent and to dispose of adequate cash flow to continue its operations.

Protective Orders: The Bill proposes to widen the scope of application for protective orders by the Supervising Officer of the Ministry of Labour. In addition to remuneration due to workers, the protective order may be sought to secure amounts in respect of pay in lieu of notice, severance allowance or gratuity due to workers.

Refund of Transition Unemployment Benefit: Where during any period of at least 24 consecutive months or an aggregate period of at least 24 months within a period of 36 months, an employer has terminated the employment of a worker more than once and has re-employed that worker on a new contract after a break of more than 28 days, and the number of days during which the worker was in the employment of the employer during the period of 24 months exceeds the number of days during which the worker was not in employment and was paid the transition unemployment benefit, the employer may be requested to refund to the Workfare Programme Fund the amount of transition unemployment benefit paid to the worker whose employment was terminated by the employer.

Conciliation and mediation powers to the Redundancy Board: The Bill proposes to allow the Redundancy Board to provide conciliation and mediation services.



Corporates

Companies

Companies limited by guarantee: Companies limited by guarantee or companies limited by both shares and guarantee may have more than 50 shareholders. The ROC may share, with Mauritian and foreign law enforcement agencies and institutions involved in the prevention of money laundering and combating of terrorism financing and proliferation financing, information which it obtains on companies limited by guarantee under the Companies Act.

Board composition: A public company holding a global business licence or an authorised company licence is exempt from sections 133(1)(b) and (c) and therefore need not appoint a female director or two independent directors on its board.

Public company: A public company with less than 50 members can convert to a private company.

GBC/AU: Registered agents, representatives of the company and persons qualified to act as company secretary are entitled to submit applications for the issue of certificates of current standing on behalf of a company holding a global business licence or operating as an authorised company.

Company service providers are subject to new obligations such as complying with directions issued by the ROC, filing a suspicious transaction report to the FIU, and with the authorisation of the company for which they act, providing beneficial ownership information under section 190(6) of the Companies Act to any competent authority.





Foundations (1/2)

Every charitable foundation will be required to keep a record, for at least 7 years, of full details of domestic and international transactions to enable verification as to whether funds were received and spent consistently with the objects of the foundation. This record must be furnished to the Registrar of Foundations or any investigatory authority at their request.

Payments made by a charitable foundation must be effected by cheque or other electronic means and for such amounts authorised by the Registrar of Foundations.

A charitable foundation must take appropriate measures to (a) confirm the identity, credentials and good standing of its beneficiaries and beneficial owners (if any), (b) verify whether its beneficial owners (if any) are involved with or using funds of the foundation to support terrorists or terrorist organisations and (c) verify the identity of significant donors.



If a foundation, its current or former council member, or its current or former secretary fails to comply with (a) its record-keeping obligations, (b) maintenance of records of the foundation's transactions, acts or operations for at least 5 years or (c) any other provision of the Foundations Act, the Registrar of Foundations will inform the foundation in writing that its name will be removed from the register of foundations if the foundation does not rectify such non-compliance within 30 days of the written notice.

The Registrar of Foundations may inform a foundation in writing that its purpose or objects no longer satisfy the requirements of the Foundations Act if (a) there is sufficient evidence that the foundation has engaged or is about to engage in activities likely to cause a serious threat to public safety or public order; or (b) the foundation has directly or indirectly made, is making, or is likely to make available any resources to a terrorist or terrorist organisation, or for the purpose of terrorism. The foundation may make representations within 21 days from the date of the written notice.





Co-operatives

The Co-Operatives Act provides for the conditions that must be satisfied for the Board of a co-operative society to sell, lease or dispose of any of its immovable property. The Bill proposes to amend the Co-Operatives Act to subject the sale, lease or disposal of movable property to the same conditions. For that purpose, a "movable property" means any fishing vessel, motor vehicle, tractor, harvester or agricultural implement in respect of which the Government has (a) given any kind of financial assistance to a co-operative society, or (b) guaranteed the repayment of any overdraft of, or any loan or advance made to, a society.

The Bill also proposes to amend the scope of a "major decision" under the Co-Operatives Act to include the sale, lease or disposal of movable property of the co-operative society as defined above.



Insolvency

The Bill proposes to allow the Chief Executive of the FSC to require the Official Receiver, a liquidator or a provisional liquidator, an administrator or a special administrator to provide certain information that is requested from them in respect of a licensee or past licensee of the FSC.

Where an administrator, an executor, a receiver or a liquidator is appointed to manage or wind up the business of any person transacting business with Customs, the administrator, executor, receiver or liquidator, as the case may be, shall give notice of his appointment to the Director-General of the MRA, within 15 days of the date of the appointment, in such form and manner as the Director-General may approve.



Regulatory & Compliance

Financial Intelligence and Anti-Money Laundering Act

The Bill proposes to exclude from the definition of a “financial institution”, an entity that is registered as a reporting issuer under the Securities Act and that does not conduct any financial activities. It proposes to bring within the definition of a “financial institution”, an institution or a person licensed, registered or authorised under the the Trusts Act as a qualified trustee or as an external pension scheme under the Private Pensions Act.

The Bill proposes to subject barristers, attorneys and notaries, to administrative sanctions where applicable. It also introduces the Mauritius Institute of Professional Accountants as the regulatory body for member firms as defined under the FIAMLA.

·The Bill further proposes to require (i) a real estate agent where he is involved in real estate transactions concerning the sale, exchange, purchase or lease of real estate for a client and a (ii) a land promoter and property developer who, in the course of a business, is involved in real estate transactions concerning the sale, exchange, purchase or lease of real estate, to comply with the FIAMLA, its regulations and guidelines.





Financial Reporting Act

·The Bill proposes to make it a criminal offence for a licensed auditor to provide audit services, on behalf of a firm, (i) on his own account; (ii) in partnership with other persons; or (iii) in a limited liability partnership without that firm being registered as an audit firm.

No audit firm will be allowed to, within a period of 10 years from its appointment as auditor of a listed company, audit the accounts of that company for an aggregate period of more than 7 years.

The Bill proposes to increase the fines and imprisonment terms for offences under the Financial Reporting Act.

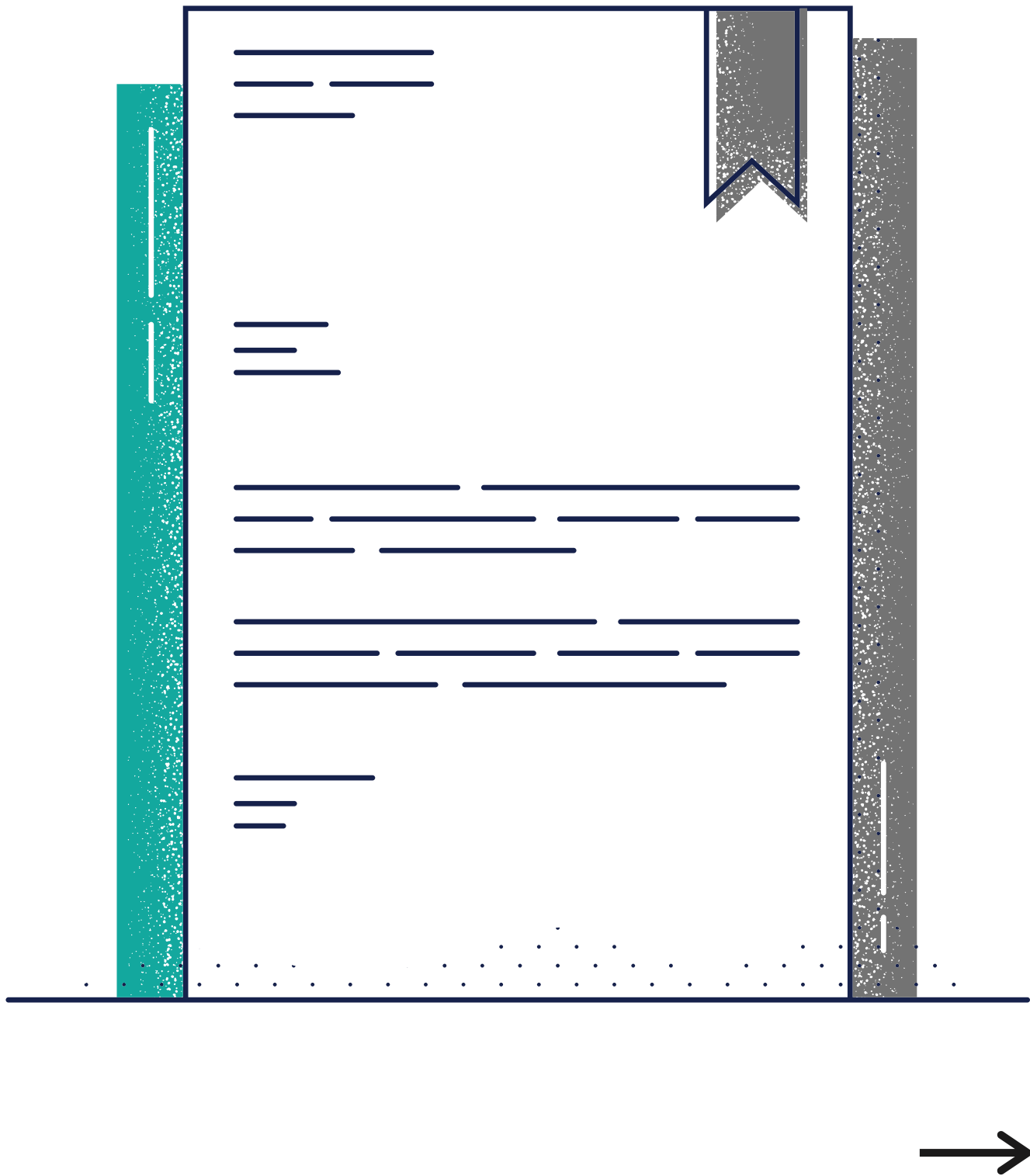
UN (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act

The Bill proposes to confer on the National Sanctions Committee the power to direct the Secretary of Home Affairs to declare a party as a “designated party”, either on the Committee’s own initiative or upon a request by any person. Where a person is declared a “designated party”, a person who holds, controls or has in his custody or possession any funds or other assets of that party will be required to notify the National Sanctions Secretariat of that position, notwithstanding any confidentiality provision that may otherwise apply.



Authorisation to provide information

Foundations, LLPs and LPs can authorise at least one officer or person ordinarily resident in Mauritius to provide, at the request of any public body responsible for combating money laundering or terrorist financing and any investigatory authorities defined in the Financial Intelligence and Anti-Money Laundering At, all basic information on the entity.



Miscellaneous



Registration with EDB

The Bill proposes new requirements regarding the registration of non-citizens with the EDB where they intend to obtain an occupation permit, family occupation permit or residence permit, or to benefit from any scheme as prescribed or specified in guidelines issued under the Economic Development Board Act. The Bill further proposes a time limit of 5 working days for a public sector agency to provide its views (where required) on an application for an occupation permit, failing which it will be deemed to have no objection to the application.

Emerging sectors

For the purpose of promoting emerging sectors, pioneer industries and first movers, innovative technologies and industries, the Bill proposes to introduce a Premium Investor Scheme (PIS) relating to the manufacture of pharmaceuticals and medical devices. A minimum investment of MUR 500 million is required under the PIS. The benefits under the PIS are (i) rebates, exemptions and preferential rates in relation to taxes, duties, fees, charges and levies; (ii) facilities, grants and exemptions in relation to (a) land and buildings; (b) infrastructure and public facilities; (c) utilities; and (d) labour requirements including foreign labour.



New criteria for certain permits issued to non-citizens

● Occupation Permit in respect of Professional

New proposed criteria for a professional working in the sector of Fund Accounting and Compliance Services:

- (i) minimum monthly basic salary of MUR 30,000;
- (ii) minimum 3 years' relevant work experience;
- and
- (iii) employer is a licensee of the FSC.

● Residence Permit

The new proposed criteria for a retired non-citizen to obtain a residence permit are:

- (i) a minimum initial transfer of USD 1,500; and
- (ii) thereafter, either (a) a minimum monthly transfer of USD 1,500 or (b) transfer of an aggregate of USD 18,000 or more per year (by instalments or otherwise) during the 10 years' validity of the residence permit.

● New Family Occupation Permit

The Bill proposes to introduce a new permit, which authorises:

- (a) the applicant, his spouse, dependent child, parent, other dependent or such other person working exclusively for the family unit to become a resident for a period of 10 years;
- (b) the applicant or his spouse, to carry out any occupation in Mauritius for reward or profit or take up employment in Mauritius; and
- (c) such persons working for the family unit to take up employment with the applicant for the purposes of attending to the needs of the family.

In order to be eligible for the Family Occupation Permit, the applicant must contribute USD 250,000 to the COVID-19 Projects Development Fund.

● New definition of "dependent child" under Immigration Act


The Bill proposes to amend the definition of a "dependent child" in the Immigration Act so as to include a person above the age of 24, provided that the person is wholly dependent on the parent, is unmarried, and not engaged in any gainful activity.





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