

# Mauritius

Mauritius has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2018 (year in review) and no recommendations are made.

In the prior year report, Mauritius did not receive any recommendations.

Mauritius can legally issue three types of rulings within the scope of the transparency framework. In practice, Mauritius issued rulings within the scope of the transparency framework as follows:

- 20 past rulings;
- For the period 1 September 2017 - 31 December 2017: no future rulings, and
- For the year in review: one future ruling.

Mauritius publishes taxpayer specific rulings in redacted form.<sup>1</sup>

Peer input was received from two jurisdictions in respect of the exchanges of information on rulings received from Mauritius. The input was generally positive, noting that information was complete, in a correct format and received in a timely manner.

## Introduction

This peer review covers Mauritius' implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

### A. The information gathering process

Mauritius can legally issue the following three types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>2</sup> (ii) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; and (iii) permanent establishment rulings.

#### ***Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)***

For Mauritius, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 2017; and (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

In the prior year peer review report, it was determined that Mauritius' undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Mauritius' implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)***

For Mauritius, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

In the prior year peer review report, it was determined that Mauritius' undertakings to identify future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Mauritius' implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Review and supervision (ToR I.4.3)***

In the prior year peer review report, it was determined that Mauritius' review and supervision mechanism was sufficient to meet the minimum standard. Mauritius' implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Conclusion on section A***

Mauritius has met all of the ToR for the information gathering process and no recommendations are made.

### B. The exchange of information

#### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

Mauritius has the necessary domestic legal basis to exchange information spontaneously. Mauritius notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

Mauritius is a party to international agreements permitting spontaneous exchange of information, including (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010*

*Protocol* (OECD/Council of Europe, 2011) (“the Convention”) and (ii) double tax agreements in force with 45 jurisdictions.<sup>3</sup>

### **Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)**

In the prior year peer review report, it was determined that Mauritius’ process for the completion and exchange of templates were sufficient to meet the minimum standard. Mauritius’ implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	0	0	N/A	N/A
Future rulings in the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	0	2	See below.	N/A
<b>Total</b>	0	2		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	N/A

The two delayed exchanges relate to one ruling on a preferential regime, which was an intellectual property regime (IP regime). As of 1 July 2017, Mauritius had this new IP regime in place, to which Mauritius has made amendments in 2019 for the regime to be in line with the nexus approach, with retrospective effect. Mauritius notes that it was unaware that the regime was in fact an IP regime during the year in review, and therefore in respect of the one issued ruling, information was exchanged with a delay. The ruling was issued on 1 October 2018 and exchanged in early 2019. As this was an exceptional error, which was quickly remedied by Mauritius, and the resulting delay was relatively short, no recommendation has been made.

### **Conclusion on section B**

Mauritius has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. Mauritius has met all of the ToR for the exchange of information process and no recommendations are made.

### **C. Statistics (ToR IV)**

As there was no information on rulings exchanged by Mauritius for the year in review, no statistics can be reported.

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

Mauritius offered two IP regimes<sup>4</sup> that are abolished as of 1 July 2018 and are subject to transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:**

Transparency obligations apply for the two regimes, because grandfathering is provided to entrants that entered the regime after the relevant date from which enhanced transparency obligations apply.

*Global business licence 1:* Mauritius is able to identify all new taxpayers, as they have to request a license in order to be a Global business company and to benefit from the regime. Taxpayers benefitting from the regime have to file a tax return, with a separate section for declaring royalty income. Information on those companies having declared royalty income and which are benefitting from the regime after the relevant date will be exchanged. With respect to new IP assets held by existing taxpayers, the tax authority will analyse the tax returns in order to determine whether there was an increase in net current assets and in income declared by the company. Based on this, there could be an indication that the company invested in new IP assets. These taxpayers have to provide additional information, and based on this Mauritius will perform exchanges.

It should be noted that the first tax returns only became available after the year in review, and as such no exchanges could take place in the year in review.

*Global business licence 2:* GBC2s are licensed by the Financial Services Commission (FSC). GBC2s are required to submit financial summaries to the FSC within six months after the end of the accounting period, including a profit and a loss account and a balance sheet. Based on the financial summaries, the FSC will retrieve a list of all GBC2s that derived income from IP and that benefitted from the regime after the relevant date. Information on those companies will be provided to the tax authority and will be exchanged. With respect to new IP assets of existing taxpayers, the FSC will analyse the balance sheets in order to determine whether there was an increase in net current assets and in income declared by the company. Based on this, there could be an indication that the company invested in new IP assets. These companies have to provide additional information, and based on this Mauritius will perform exchanges.

- **Third category of IP assets:** not applicable as the IP regime has been abolished.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the IP regime has been abolished.

Mauritius introduced a new IP regime which came into effect from 1 July 2017.<sup>5</sup> Regulations for this regime have been issued in June 2019 and the regime now includes the nexus approach with retrospective effect. It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** as this is a new IP regime rather than a grandfathered IP regime, transparency on new entrants is not relevant.
- **Third category of IP assets:** the regime allows the third category of IP assets to qualify for the benefits. However, as this regime has been amended in 2019 in order to introduce the nexus approach, taxpayers could only opt for the third category of IP assets in 2019 which is after the year in review. As such, this aspect will be assessed during next year's peer review.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the regime does not allow the nexus ratio to be treated as a rebuttable presumption.

## Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Mauritius experienced some delays in exchanging information on one future ruling.	No recommendation is made because Mauritius completed exchanges on the delayed future ruling quickly after the issues were identified and resolved, and this is not a recurring issue.

## Notes

<sup>1</sup> Available at: <http://www.mra.mu/index.php/media-centre/rulings/income-tax-rulings>.

<sup>2</sup> With respect to the following preferential regimes: 1) Global business license 1, 2) Global business license 2, 3) Global headquarters administration regime, 4) Global treasury activities, 5) Captive insurances, 6) Segment B banking, 7) Investment banking, 8) Freeport zone, 9) Shipping regime, 10) Innovation box and 11) Partial exemption system.

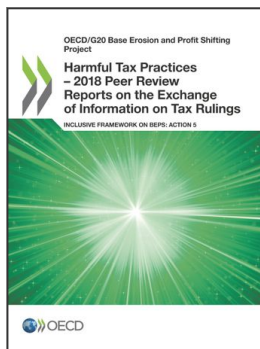
<sup>3</sup> Parties to the Convention are available here: <http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>. Mauritius also has bilateral agreements in force with Bangladesh, Barbados, Belgium, Botswana, Cabo Verde, China (People's Republic of), Congo, Croatia, Cyprus, France, Germany, Ghana, Guernsey, India, Italy, Jersey, Kuwait, Latvia, Lesotho, Luxembourg, Madagascar, Malaysia, Malta, Monaco, Mozambique, Namibia, Nepal, Oman, Pakistan, Qatar, Rwanda, Senegal, Seychelles, Singapore, South Africa, Sri Lanka, Swaziland, Sweden, Thailand, Tunisia, Uganda, United Arab Emirates, United Kingdom, Zambia and Zimbabwe. In addition, Mauritius' TIEA with the United States permits for the spontaneous exchange of information.

Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

<sup>4</sup> These regimes are: 1) Global business licence 1 and 2) Global business licence 2.

<sup>5</sup> Innovation box.



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