



**Editorial**

Dear Readers,

Looking back at the year 2004 that is drawing to a close, we take stock of what a challenging twelve months indeed these have been for the global business sector. Cross border investments have suffered from the somewhat unstable economic situation that has prevailed worldwide whilst at home practitioners have had to address concerns of investors arising from the situation in respect of the Indonesia tax treaty and at the same time adjust to the growing demands of regulation.

There were however many positive aspects that augur well for the future of our industry. Mauritius is very well positioned vis-à-vis the Peoples' Republic of China by virtue of its very favourable tax treaty with this country. As the latter's economy is growing at a tremendous pace, Mauritius offers a jurisdiction of choice for holding investments and carrying out other operations in the Peoples' Republic of China.

The funds industry is continuing its growth as more and more professionals in this particular field are realising the potential of Mauritius as a well regulated jurisdiction with a wide pool of well qualified professionals.

Mauritius has also positioned itself as a viable Trust jurisdiction thanks to its unique set of legislation and availability of its expanding network of tax treaties.

We would like to thank all our readers for their support throughout the year and convey to everyone our very best wishes for the festive seasons and a happy and prosperous 2005.

Jimmy Wong

**Contents**

The Banking Act 2004 and the Bank of Mauritius Act 2004 ..... 1  
 FSPA's Promotion Mission to Europe.... 1  
 Financial Services Commission – Licence Fees ..... 2  
 An Overview of the Continuing Professional Development Scheme for Accountants ..... 2  
 News  
     Tax Treaties.....2  
     Update on the Indonesia/ Mauritius Tax Treaty..... 2  
     Public Holidays 2005..... 2

**The Banking Act 2004 and the Bank of Mauritius Act 2004**

Two new acts, namely The Bank of Mauritius Act 2004 and The Banking Act 2004, regulating the banking sector have been enacted in October 2004. Whilst The Bank of Mauritius Act 2004 governs the Central Bank principally, the Banking Act 2004 governs the banking business in general. The objective of the new acts is to consolidate the laws relating to the business of banking and other financial institutions and to provide for related matters. Hereunder are the key points which will affect the global business sector.

**The Banking Act 2004("the Act")**

The Act primarily merges the global business sector and the domestic sector by abolishing the two types of banking licence i.e Category 1 Banking Licence and Category 2 Banking Licence which was allocated to banks in the domestic and global business sector respectively. The same banking licence will now apply to both sectors.

The new Act provides greater confidentiality for client information and any request for information will have to be authorised by a Judge in Chambers as stipulated in Section 64 (9) of the Act.

"The Commissioner under the Prevention of Corruption Act 2002, the Chief Executive of the Financial Services Commission established under the Financial Services Development Act 2001, the Commissioner of Police, the Director-General of the Revenue Authority, the Revenue Commissioner under the Unified Revenue Act, or any other competent authority in Mauritius or outside Mauritius who requires any information from a financial institution relating to the transactions and accounts of any person, may apply to a Judge in Chambers for an order of disclosure of such transactions and accounts or such part thereof as may be necessary."

In respect of the opening of bank accounts, the proof of identity of the owner of the accounts will have to be provided as stipulated by Section 55 of the Act

"(1) Every financial institution shall only open accounts for deposits of money and securities, and rent out safe deposit boxes, where it is satisfied that it has established the true identity of the person in whose name the funds or securities are to be credited or deposited or the true identity of the lessee of the safe deposit box, as the case may be.

(2) Every financial institution shall require that each of its accounts be properly named, at all times, so that the true owner of the accounts can be identified by the public and no name shall be allowed that is likely to mislead the public"

The enactment of these new pieces of legislation show the continued effort of the Government of Mauritius to place Mauritius as a leading regional financial hub.

**FSPA's Promotion Mission to Europe**

The Financial Services Promotion Agency ("FSPA") has organized a promotion mission to London, Geneva, Zurich and Paris from 18 October to 25 October 2004. The turn out for the seminars in each capital cities were most encouraging, exceeding the hundred professionals in London.

The delegation from Mauritius comprised of the Minister of Industry, Financial Services and Corporate Affairs, the Chief Executive of the Financial Services Commission, the Director of the FSPA, representatives of Management Companies, bank representatives and lawyers.

The themes which were on the seminar programme included interalia:

- Government Policies & Strategies
- Financial BPO Activities in Mauritius
- Private Wealth Management and Trust
- Mauritius Protected Cell Companies
- Corporate Structuring and Tax Planning
- The Banking & Financial Services Sector

## Financial Services Commission – Licence Fees

The Financial Services Commission (FSC) has in a communication addressed to all management companies signified its intention to enforce the provisions of the Financial Services Development Act 2001 (the Act), relating to renewal of licence fees for companies holding a Category 1 Global Business Licence or a Category 2 Global Business Licence, more rigidly in the future.

In accordance with the Act, payment for renewal of licences becomes due as from 15 days before the expiry date of the licence. In the event of non-payment and upon written advice, the licence lapses one month after the day the annual fee payment became due.

If the annual fee that is due in respect of the renewal of a global business licence is not submitted to the FSC within the time-frame, the FSC will notify the licensee that the licence has lapsed. This means that the company may not transact any more business and that the licence must be surrendered to FSC.

Should the company want to remain in business, a new application will have to be submitted with appropriate fees (including all outstanding fees). The FSC will not be bound to re-license. If FSC agrees to re-license, the licence conditions that applied to the original licence may be changed. If an application to re-license is not received by FSC within one month of the expiry date, the company must be wound up and dissolve within 3 months of the date of revocation of its licence.

These provisions are being enforced for all licences expiring on or after 1 November 2004.

FSC has also decided to issue a Category 1 Global Business Licence to all Category 1 Global Business Companies holding an Offshore Certificate issued under the then Mauritius Offshore Business Activities Act 1992 at the time of payment of the annual fee. After the issue of the licence, the original Offshore Certificate must be returned to FSC for cancellation.

## An Overview of the Continuing Professional Development Scheme for Accountants

The common saying that accountancy is dull and boring may be proved wrong. As mentioned in our previous edition, the introduction of the IFRS represents a major challenge for accountants. Yet another one is ahead: The introduction of a Continuing Professional Development (CPD) scheme for professional accountants, notably members of the prestigious Institute of Chartered Accountants of England & Wales (ICAEW) and Association of Chartered Certified Accountants (ACCA) amongst others.

The new approach will become effective as from 1 January 2005. All members whether working full or part time will have to participate in the CPD scheme, with the exception of those who have already retired.

The CPD scheme aims to provide greater recognition to the standards of the qualified bodies and the degree of professionalism exercised by their members. The scheme will necessitate that members improve their knowledge, skills and expertise. An area of particular importance will be the regular update on technical issues which is crucial to an ever changing environment. Furthermore, accountants will also have the opportunity to develop their personalities and improve their skills in terms of communicating with others and widening their scope of work. Flexibility will be a key aspect of the scheme in terms of the following:

- Different sectors of employment

The scheme takes into account that accountants are in employ in various sectors, hence different environment and scope of work. The scheme allows members the flexibility of assessing their own expectations and risk areas depending on the environment they are working in.

- Completion of the CPD scheme

Members will have different ways to complete their CPD which again may depend on their environment and their expectations.

The qualified bodies will provide support and assistance in helping members to complete their CPD.

CPD will not only generate benefits for the individuals and but also for the firms they are working for. Belonging to a body of great repute will boost confidence and a higher degree of professionalism will provide a higher quality service.

## List of 2005 Public Holidays

New Year .....	Saturday 1 January
New Year .....	Sunday 2 January
New Year .....	Monday 3 January
Thaipooam Cavadee .....	Tuesday 25 January
Abolition of Slavery .....	Tuesday 1 February
Chinese Spring Festival .....	Wednesday 9 February
Maha Shivrtee .....	Tuesday 8 March
National Day .....	Saturday 12 March
Ougadi .....	Saturday 9 April
Labour Day .....	Sunday 1 May
Ganesh Chaturthi .....	Thursday 8 September
All Saints Day .....	Tuesday 1 November
Divali .....	Tuesday 1 November
Arrival of Indentured Labourers .....	Wednesday 2 November
*Eid-UI-Fitr .....	Friday 4 November
Christmas .....	Sunday 25 December

*\*\*The exact of this festival is subject to confirmation as its celebration depends on the visibility of the moon.*

## News

### Tax Treaties

Mauritius has ratified two additional tax treaties with Uganda and Lesotho since 21 July 2004 and 9 September 2004 respectively. The salient features of both treaties are:

- Withholding tax rate applicable on dividends, interests and royalties shall not exceed 10 per cent of the gross amount received; and
- Capital gains are taxable only in Mauritius under the treaties. There is no capital gains tax in Mauritius.

This brings to 30 the total number of tax treaties that Mauritius has ratified to date.

### Update on the Indonesia / Mauritius Tax Treaty

The Mauritian government is actively liaising with its Indonesian counterpart in order to obtain an extension to the treaty pending new negotiations.

### Disclaimer

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### Board of Directors

Patrice d'Hotman de Villiers (Chairman)  
Gaetan Lan  
Simon Pierre Rey  
Eric Venpin  
Jimmy Wong

### Your Contacts

You may have specific business requirements, in which case you should contact:

Eric Venpin, FCA, TEP  
Jimmy Wong, FCA, TEP  
Gaetan Lan, FCA

### DTOS Ltd

4th Floor, IBL House, Caudan, Port Louis  
Republic of Mauritius

Telephone: +230 203 2020  
Facsimile: +230 212 6149  
Email: info@dtos-mu.com  
Website: http://www.dtos-mu.com

### Editorial Team

Jimmy Wong Mike Mootien  
Chaya Mungla Natasha Ng  
Lina Chan