

# FINANCIAL SERVICES COMMISSION

## GUIDE TO GLOBAL BUSINESS

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## FOREWORD

The Financial Services Commission (“FSC”) was established by the Financial Services Development Act, 2001.

The FSC is responsible for licensing, regulating, monitoring and supervising the conduct of business activities in the non-banking sector of the financial services industry in Mauritius – which includes, inter alia, Global Business Companies conducting Qualified Global Business from within Mauritius.

This booklet is part of a series entitled “Guide To...”. The object of these booklets is to provide a simple overview of certain topics and matters that are relevant to the general work of the FSC. By definition, an overview will not provide detailed information on every aspect of a topic. Accordingly, where more information is required, you may care to consult the relevant legislation. Naturally, all officers of the FSC will be pleased to provide whatever assistance they can.

The object of this booklet in particular is to assist those who want to know more about what we refer to as Qualified Global Business.

This Guide neither derogates from nor restricts the power vested in the Commission by Statute. The Commission publishes Guides pursuant to its functions under section 6 (d) and under its powers under section 7 (1) (a) of the Financial Services Development Act 2001.

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## **1.0 Background**

The aim of this Guide is to provide assistance to those who want to know more about "Qualified Global Business".

For the purposes of the Guide, an "Applicant" means a Corporation<sup>1</sup> that has already or intends to apply for a Global Business Licence – and in whose name the Licence will be issued if the application is successful.

Copies of all documents referred to in the Guide will be made available upon request.

## **2.0 Introduction**

The concept of "Qualified Global Business" was introduced by section 19 and Schedule 2 to the Financial Services Development Act 2001 ("the FSD Act")

## **3.0 The Legislation**

Section 19 (2) (a) of the FSD Act says that;

"...a Qualified Global Business is any business or other activity -

“specified in the Second Schedule and which is carried on from within Mauritius with persons all of whom are resident outside Mauritius and which is conducted in a currency other than the Mauritius currency;...”.

The FSD Act goes on to say in Section 19 (2) (b) that a Qualified Global Business is any business or other activity -

"... which is carried on by a private company –

- (i) Incorporated or registered under the Companies Act 2001;
- (ii) Which does not conduct business with persons resident in Mauritius nor conduct any dealings in Mauritius currency; and
- (iii) Which holds a Category 2 Global Business Licence...”.

### **3.1 Who May Conduct Qualified Global Business?**

A Corporation<sup>1</sup> holding a Category 1 or a Category 2 Global Business Licence may carry on a qualified global business provided that:

they are incorporated or registered under the Companies Act 2001;

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<sup>1</sup> Means a body corporate or incorporate, formed in Mauritius or elsewhere and includes a trust, société or partnership or any body of persons.

the business is conducted with non residents of Mauritius;  
the currency in which the business is conducted must not be Mauritian Rupees;

In principle, a Category 1 Global Business Licensee (conducting Qualified Global Business described in Schedule 2 - refer to 4.0 below) may be a private or a public company – whereas a Category 2 Global Business Licensee has to be a private company. However, the requirements attaching to Category 2 licences are different from the requirements attaching to a Category 1 licence.

#### **4.0 Which activities are listed in the Second Schedule?**

The Second Schedule lists the following activities:

- Aircraft Financing and Leasing
- Asset Management
- Consultancy Services
- Employment Services
- Financial Services
- Funds Management
- Information and Communication Technology Services
- Insurance
- Licensing and Franchising
- Logistics and or Marketing
- Operational Headquarters
- Pension Funds
- Shipping and Ship Management
- Trading
- Such other qualified global business as may be approved by the Commission

#### **5.0 Which Activities May Be Carried On By A Category 2 Global Business Licensee?**

The activities that may be carried on by a Category 2 Global Business licensee include:

- Non financial consultancy
- IT services
- Logistics
- Marketing
- Shipping
- Ship Management
- Trading – non financial
- Passive Investment Holding
- One off transaction using a Special Purpose Vehicle (e.g. registration of a foreign aircraft; etc.)

- Such other activity as may be approved by the Commission

## **6.0 What Is Licensable?**

Section 20 (1) (a) of the FSD Act says that in order to carry on the Qualified Global Business described under s 19 (2) (a) and (b), a person must be the holder of either a Category 1 Global Business licence or a Category 2 Global Business licence respectively.

## **7.0 What Are The Distinguishing Features of a Category 1 Global Business Licensee?**

- Resident for tax purposes;
- It is possible to have corporate shareholders;
- Limited business with residents may be possible;
- Annual audited financial statements must be filed with the FSC;
- Only records of public companies are available to the public;
- Use of DTAs is possible;
- At least one Director at all times needs to be ordinarily resident in Mauritius. Where the Company intends to apply for a Tax Residence Certificate (issued by the Commissioner of Income Tax), at least two Directors need to be present in Mauritius;
- Corporate Directors are not allowed;
- Bearer shares are not allowed;
- No minimum share capital (except for Insurance Companies, Fund Managers etc);
- Shareholders/Beneficial Owners may be Mauritian residents.

## **8.0 What Are The Distinguishing Features of a Category 2 Global Business Licensee?**

- Not Resident for tax purposes;
- Business with residents is not possible;
- Audited financial statements need not be filed;
- Records are not available to the public;
- Use of DTAs is not possible;
- Corporate Directors are allowed;
- Bearer shares are not allowed;
- No minimum share capital required;
- No Mauritian resident may hold a beneficial interest in a Category 2 Licensee.

## **9.0 What May a Category I Global Business Licensee Own and Not Own?**

- A Category 1 Global Business Licensee may hold shares in another Category 1 Global Business Licensee;

- A Category 1 Global Business Licensee having no Mauritian residents as shareholders or beneficial owners may hold shares in a Category 2 Global Business Licensee;
- A Category 1 Global Business Licensee may not hold shares in a Management Company;

#### **10.0 What May a Global Business Category 2 Licensee Own or Not Own?**

- A Category 2 Global Business Licensee may hold shares in another Category 2 Global Business Licensee;
- A Category 2 Global Business Licensee may hold shares in a Category 1 Global Business Licensee;
- A Category 2 Global Business Licensee may not hold shares in a Management Company;
- A Category 2 Global Business Licensee may not hold property in Mauritius;
- A Category 2 Global Business Licensee may not have a MUR bank account.

#### **11.0 Are There Any Other Limitations On A Category 1 Global Business Company?**

- A Category 1 Global Business Licensee may hold immovable property in Mauritius if appropriate approval has been obtained from the Prime Minister's Office;
- A Category 1 Global Business Licensee may not hold any share, debenture, security or any interest in any company incorporated or registered under the Companies Act 2001 except in any securities listed on the Stock Exchange;
- A Category 1 Global Business Licensee may not have a MUR bank account except for the purpose of its day to day transactions arising from its daily operations in Mauritius.

#### **12.0 The Application Process**

Applicants for a Category 1 Global Business Licence must engage a Management Company to process the application with the Financial Services Commission ("FSC").

The Application Process in respect of Category 1 is described fully in the Commission's "Guide to Completing the Application Form for a Category 1 Global Business Licence".

Applicants for a Category 2 Global Business Licence must appoint a Management Company or a Registered Agent to process the application with the Financial Services Commission ("FSC").

The Application Process in respect of a Category 2 Global Business Licence is described fully in the Commission's "Guide to Completing the Application Form for a Category 2 Global Business Licence".

Both Guides described above and the respective (prescribed) Application Forms are available on the FSC's web site ([www.fscmauritius.org](http://www.fscmauritius.org))

### **13.0 What is a Management Company?**

Section 24 of the Financial Services Development Act provides for the establishment of Management Companies ("MCs") – which are domestic companies. MCs are licensed to provide the following services:

- establishment of Global Business Companies for Clients;
- acting as Company Secretary;
- provision of Registered Office facilities;
- provision of Directorships by officers of Management Companies;
- Management Company acting as Corporate Director for Category 2 Global Business Companies;
- Trusteeship and trust administration services;
- provision of nominee services and
- provision of company administration services.

A list of Management Companies is available on the Commission's web site.

### **14.0 What is a Registered Agent?**

Registered Agents are required to be appointed (by a resolution of Directors) under Regulation 10(1) of the Financial Services Development Regulations 2001.

Every Category 2 Global Business Company must at all times have a Registered Agent in Mauritius. Their functions include processing licence applications with the FSC, receiving and forwarding all communication from and to the Commission, filing documents etc.

A Management Company may (all other things being equal) act as a Registered Agent in respect of a Global Business Licence Category 2 application.

### **15.0 Fit and Proper**

Section 14(2) of the Financial Services Development Act 2001, states that as well as satisfying all licensing requirements, an Applicant must be "... a *fit and proper person*...". By definition therefore, a licence will not be issued unless that

Applicant is considered to be fit and proper - even though the Applicant satisfies all the licensing criteria.

The Fit and Proper criterion and how it is assessed is fully described in the Commission's "Guide to Fit and Proper" – a copy of which is available on the web-site described above.

## **16.0 The Beneficial Owners**

Total transparency in the ownership structure of a Category 1 Global Business Licensee is required. The ultimate Beneficial Owner(s) must be identified as part of the Application process.

In respect of an Applicant for a Category 2 Global Business licence, the Applicant should (ideally) identify the beneficial owner(s) - otherwise the FSC will accept the name(s) of the members. This is subject to the Registered Agent always having and retaining (at his registered office) full information on the identity of the beneficial owners – and to being willing to provide that information to the FSC upon request and in the course of the compliance visit. By authorising the submission of this application, the Applicant undertakes to ensure that the Registered Agent has this information and is authorised to disclose it to the FSC as described above;

## **17.0 Tax**

A Category 1 Global Business Company is a tax incentive company and is taxed at 15%.

A Global Business Category 2 licensee is not tax resident in Mauritius and is therefore not liable to tax.

Further information on tax matters is obtainable from the Commissioner of Income Tax.

## **18.0 What Exemptions May Category 1 and Category 2 Global Business Companies Claim?**

Section 42 (2) of the FSD Act provides that a Category 1 Global Business Company is exempt from payment of any duty, levy, charge, fee or tax imposed by any of the enactment specified in the Fourth Schedule<sup>2</sup> to the FSD Act. These exemptions are in respect of:

- 18.1 its qualified global business;
- 18.2 in the case of a shareholder of a company holding a global business licence or a holder of a debenture issued by that company, any security,

- charge, pledge or other encumbrance created over the shares or debentures issued by that company to the shareholder or debenture holder, as the case may be;
- 18.3 in the case of a corporation holding a global business licence, its dealings with residents with the approval of the Commission;
- 18.4 any authorised dealing in property situated in Mauritius;

Similarly Section 42(4) of the FSD Act provides that a company holding a Category 2 Global Business Licence is exempt from payment of any duty, levy, charge, fee or tax, and from the requirement of any filing, imposed by the enactments specified in the Fourth Schedule<sup>2</sup> in respect of:

- 18.5 any transfer of property to or by the company;
- 18.6 shares, debt obligations or other securities of the company;
- 18.7 the assets or activities of the company.

## 19.0 Fees

Fees payable are as follows:

### 19.1 To The Registrar Of Companies

	Cat 1 Pr Co <sup>3</sup> (MUR)	Cat 1 Pub Co <sup>4</sup> (MUR)	Cat 1 For Co <sup>5</sup> (MUR)	Cat 2 (\$)
Incorporation/ Registration	2000	9000	9000	65
Annual Registration	6000	9000	9000	65

### 19.2 To The FSC

	Cat 1 (\$)	Cat 2 (\$)
Processing	500	0
Annual	1500	135

<sup>2</sup> The Fourth Schedule includes the Land (Duties and Taxes) Act 1984; Local Government Act 1989; the Registration Duty Act; the Stamp Duty Act 1990; and the Transcription and Mortgage Act.

<sup>3</sup> Private

<sup>4</sup> Public

<sup>5</sup> Foreign

Fees payable to the FSC may be paid by way of cheque (made payable to the Financial Services Commission). The cheque may be denominated in US Dollars or in Mauritian Rupees (in which case the amount will be the fee as expressed above times the exchange rate prevailing on the day the Application is submitted).

## **20.0 Processing Time**

The FSC endeavours to process all Applications as quickly as possible. Processing will be faster if all the documentation (including the Processing Fee) is correctly and fully completed and submitted together.

In respect of more complex Category 1 Global Business applications (e.g. Collective Investment Schemes), the FSC will make every effort to finish processing within four weeks of receipt of complete and correct documentation and within one week for less complex applications (e.g. Financial Consulting). Category 2 Global Business applications will be processed within 48 hours.