

MAURITIUS IS BACK ON THE WHITELIST: LESSONS LEARNT AND EXPERIENCE FOR THE FUTURE



MAURITIUS

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21st October 2021 is a day to remember as it marks the long-awaited decision of the 'Financial Action Task Force' ("FATF") to remove Mauritius from its list of countries under enhanced monitoring which is commonly referred to as the 'Grey List'. This augurs well as it will entail automatic removal of our State Island from the European Union's 'Blacklist' and the United Kingdom's list of 'High-risk third countries'. The efforts and perseverance of the whole nation must be underlined as it represents the resilience and will power to get our country's name cleared. In many ways, this adventure within the 'dark spot' of FATF for some 20 months has also been a 'blessing in disguise' and it is needful for us to live by this experience and draw the important lessons of 'non-compliance'.

If Mauritian operators think we have reached the end of the road, it is needful to be reminded that the road starts only now...



THE HISTORICAL FALL

The painful history started in 2018 when Eastern and Southern Africa Anti Money Laundering Group ("ESSAMLG"), representative committee of FATF for the African Region, reported in its Mutual Evaluation Report ("MER 2018") a long list of its technical compliance deficiencies for the Mauritian jurisdiction. Mauritius fell short of the FATF's 40 Recommendations required to combat Money Laundering and to counteract the financing of Terrorism. The 40 Recommendations in fact provide a complete set of countermeasures against money laundering (ML) covering the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation. They have been recognised, endorsed, or adopted by many international bodies.

In February 2020, Mauritius was placed on the 'Grey List' of the FATF. One month later, Mauritius experienced its first lockdown due to the Covid-19 pandemic and the whole country was closed for

three successive months. In June of the same year, the European Union placed Mauritius on its 'Blacklist' as a country which was not compliant with Anti-Money Laundering and the counteracting of Terrorism financing ("AML/CFT"). The 'doom list' was still incomplete because the UK which has moved out of the EU following Brexit, issued its own list of High Risk Third Countries in January 2021 and in July 2021, Mauritius was added to that list.

The Mauritian Government, the different regulatory institutions and Industry captains of the different economic sectors became suddenly conscious that our Country has not only been severely hit by the pandemic, but it has to face another big national challenge: bring together all efforts in order to reach the required level of compliance with AML/CFT compliance in the face of the whole world.



What it meant to be on the FATF grey list and the EU black list?

Although the UK listing of Mauritius in its ‘High Risk Third Country’ came only lately in July 2021, the ‘Grey listing’ label has had a 20-month duration. The International Financial Sector was ‘under siege’ with innumerable clients shifting business to other jurisdictions, new investors keeping Mauritius on a secondary ‘waiting list’, considerable delays in bank transfers for people dealing with Mauritius.

Many Global Business Companies responsible to effect payment of payroll to various jurisdictions, had experienced delays in getting payments through.

It became evident that although Mauritius has legislated a great number of modern acts, regulations and rules, the country was late in their practical application. Although our ‘Financial Intelligence and Anti-Money Laundering Act’ (“FIAMLA”) and our ‘The Prevention of Terrorism Act’ (“POTA”) date as far back as 2002, there has never been the required efforts to implement them as such. Right from the Bank of Mauritius (“BOM”) which has the responsibility to regulate Banks, the Financial Services Commission (“FSC”) which supervises the Global Business, Insurance and Stock exchange business sectors and the Financial intelligence Unit (“FIU”) , a general state of non-compliance with AML/CFT laws was noted. Absence of self-monitoring processes, lack of regulatory supervision on the field, inadequacy of training and capacity building became apparent. The state of chaos became widespread and immensity of the challenges at national level became a concern for the whole nation.

The Emergence of DNFBPs

Mauritian resilience started to work at its most. The term ‘DNFBP’ (‘Designated Non-Financial Businesses and Professionals’) has now become a familiar name to the business community and operators have become conscious that not only banks or Global Business entities are concerned with AML/CFT but all sectors of the economy.

We reproduce below the operators who are classified as DNFBPs within the meaning of the FATF:



Remarkable efforts have been done by the different Regulatory Bodies to conduct site inspection of operators falling under their supervision, the emergence of professional service providers in AML/CFT compliance and training and capacity building have become widespread across all economic sectors. In the wake of the pandemic which has brought to the whole world the concept of ‘Work from Home’, virtual meetings, on-line webinars, high level interactive training have enhanced the landscape.

The time when Lawyers were saying that they did not receive payment directly from clients but through solicitors, is now gone as they now have the direct responsibility to enquire on the source of money from which they are paid by clients. The Attorney General Office has sanctioned various legal consultants for non-observance of basic rules of AML-CFT. Notaries who were invoking that they accepted only ‘Bank

Cheques' to undertake a transaction and that was sufficient for them to cover all risks, now realise that they have an important role to play in identifying suspicious transactions. The 'wake-up call' has touched all sectors including Accountants, Auditors, Real Estate developers, dealers in precious metals, co-operative societies etc.

The shortcomings have also given rise to a new Profession : Company Service Providers ("CSP") under the close eyes of the Registrar of Companies ("RoC"). Previously, anybody was acting at 'Company Secretary' and there was no control on 'Ultimate Beneficial Owners'. This is something of the past now as CSPs need to report to the RoC on all companies being serviced by them on a quarterly basis.



Lessons for the Future

It is important that we realise that going out of the different undesirable lists, is not the end of the road as international organisations and regulators will consider their monitoring of our jurisdiction. In some corners, we hear operators boasting their pride of being 'out of the grey list' while Pakistan is still in. Others would remark that 'Mauritius is now compliant with all the 40 Recommendations of the FATF and we are ahead of the USA, the UK or Singapore'. This is pure short-term thinking as we do not have the competitive advantages of those big economies and such comments should be avoided.

Looking back over the past twenty months, it is imperative for all operators within the different economic sectors to draw the lessons from this past experience and we summarise below a few of the main lessons learnt:

Integration of national economies to international rules

The integration of national economies and markets has increased substantially in recent years, putting a strain on the international AML/CFT requirements, which were designed more than three decades ago. Mauritius cannot continue to operate in isolation and look at the tip of its nose only.

Compliance culture

Regulators of all economic sectors as well as all operators must adopt the AML/CFT culture in their everyday work. The onboarding of clients in any business relationship can no longer ignore the assessment of AML/CFT risks

Regulatory vigilance

Constant monitoring is the order of the day. Regulators need to maintain the high level of vigilance and monitoring and ensure that operators are in-line with latest updates in our law and regulations.

Constant updating, training, and monitoring

Operators in all sectors must continue to exercise control through world checks, proper client screening and maintain a permanent monitoring of risks. Training in AML/CFT is essential to employees of all ranks in the organisation.

Corporate Governance

Governance needs to become our label and governance rules need to be observed by all organisations whether public, private or parastatal.

Getting away with corruption, malpractices and endorse level- playing field.

The hit in our reputation as a nation has been tremendous indeed and it is true that we shall carry some scars for some time ahead. Is it not high time to think about getting away with corruption, malpractices, favouritism, the nomination of political nominees in positions of leadership and create a real level-playing field in our corporate arena?



The Way Forward

The month of October 2021 has been eventful for different reasons. The opening of our frontiers augurs well for our economy in general and particularly for our Hospitality and Tourism sector, the PRB report which was long awaited by Public Servants is now a reality, the tremendous amount of infrastructure being realised all around the Island and the money flows in the economy are all positive factors which pave the way for economic growth and sustainability. It's time to build up on our resilience and use our experience of the 'dark days' as a springboard for a better future.



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