



Mauritius Enacts Good Governance and Captive Insurance Laws



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Of Good Governance and Captives

This alert provides a general overview of the *Captive Insurance Act, 2015* (“CIA”) and *Good Governance and Integrity Reporting Act, 2015* (the “Act”), the latest legislative updates being introduced in Mauritius. These Acts demonstrate the continued commitment the jurisdiction has toward further enhancing its services offerings as well as its culture of transparency and good governance.

Captive Insurance Act

The CIA sets out the legal framework for licensing, regulating and supervising captive insurance business, namely pure captives whereby a corporate body insures itself (and/or its affiliates within its group) and mitigates the risks through reinsurance.

A person carrying out, or holding himself out as carrying out, captive insurance business, in or from within Mauritius, must obtain a licence issued by the Mauritius Financial Services Commission (the “Commission”). The application for a captive insurance business licence must include details such as description of intended classes of business and cover, limits of liability, details of reliance placed on reinsurers, outline of investment and dividend strategies. Other details include: the amount and liquidity of its assets relative to the risks to be assumed; the overall soundness of its plan of operation; and a projected balance sheet, profit forecast and statement of cash flows. Other required information is the investment policy of the captive insurance business, information on the adequacy of the expertise, experience and character of the persons who will manage the captive insurance business, and information on the adequacy of the loss prevention programmes of the policyholders.

A captive insurer may insure a contract of insurance or reinsurance pertaining to general insurance business, an Alternative Risk Transfer policy contract (as defined in the CIA), and any other class or type of insurance business as may be prescribed.

A captive insurer is required to have at all times a captive insurance agent in Mauritius, who is essentially responsible to liaise with the Commission, and maintains records of the captive insurer. Only a Mauritius law practitioner, a management company, an actuary, an insurance manager or a public accountant may act as captive insurance agent, subject to approval of the Commission upon application.



In terms of governance, a captive insurer should ensure that its governance structure provides effective oversight of the activities of its business taking into consideration the nature, scale and complexity of the business being conducted and that its board of directors comprises not less than three directors (at least one of whom shall be resident in Mauritius). The captive insurance agent may act as its resident director. Furthermore, the captive insurer must conduct its board meetings at its registered office in Mauritius, in the presence of the resident director.

The Board is responsible for the formulation and approval of the investment policy, strategy and objectives of the captive insurer. The Board must take account of the analysis of its asset and liability relationship, its overall risk tolerance, its long-term risk-return requirements, and its liquidity requirements and solvency position.

All captive insurers enjoy a tax holiday for a period of 10 years from the date of commencement of the CIA.

The CIA gives a fresh stimulus to the insurance sector, expected to attract at least several hundred captives to Mauritius over the next few years, including market leading global names such as AXA, Lloyds, Palm Captive and Old Mutual.

Good Governance and Integrity Reporting Act

After intense debate in the National Assembly, the Act, an adjunct to the existing laws applicable to corruption and bribery, was finally enacted. This new piece of legislation aims to further promote a culture of good governance and integrity reporting, whilst also stimulating integrity reporting within both public and private spheres.

The Act applies to property of citizens of Mauritius only, excluding property acquired or having come in the possession or under the custody or control of such citizens before 2009, as well as unexplained wealth of less than 10 million Mauritian Rupees (approximately US\$300,000).

The term “unexplained wealth” as defined in the Act includes any property:

1. under the ownership of a person to an extent which is disproportionate to his emoluments and other income;
2. the ownership, possession, custody or control of which cannot be satisfactorily accounted for by the person who owns, possesses, has custody or control of the property; or
3. held by a person for another person to an extent which is disproportionate to the emoluments or other income of that other person.

Under the Act, a person who has reasonable ground to suspect that another person has acquired unexplained wealth, reports the matter in writing to the Integrity Reporting Services Agency (the “Agency”), which is the focal point for acts of malpractices and unexplained wealth, for receiving reports and disclosures of positive acts of good governance and integrity, as well as evaluating and processing reports or disclosure. The Agency may also draw up a report addressed to the Integrity Reporting Board (the “Board”) recommending a reward to a public body, body corporate or any other person who has encouraged a culture of good governance and integrity reporting, stimulated integrity reporting in the public and private sectors, made positive reports of acts of good governance and integrity or disclosed malpractices which have led to the confiscation of unexplained wealth.



In a suspected case of unexplained wealth, the Agency may apply to the Judge in Chambers for a disclosure order to obtain information on property held by a person or by any other person on his behalf, or requiring any person to disclose the sources of funds used to acquire, possess or control any property. After enquiry, the Agency reports the matter to the Board which then determines whether an application for an “unexplained wealth order” before the Judge in Chambers should be made by the Agency, what further action, if any, should be taken in respect of the report, and whether any person deserves a reward and the quantum thereof.

The Act, which came into force on 1 January 2016, is expected to further strengthen the regulatory and legal frameworks regarding anti-corruption and related areas.

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