



**Financial Services Commission**  
Mauritius

# **Who We Are & What We Do**

April 2013

# Agenda

1. Regulation of Mauritius Financial Services Sector
2. Non-Bank financial regulation prior to 2001
3. About Financial Services Commission
4. Existing Legislation relevant to FSC
5. Sector-wise overview
6. Opportunities and Challenges for the Mauritius IFC

# Regulation of Mauritius Financial Services Sector

## Financial Services Commission (FSC)

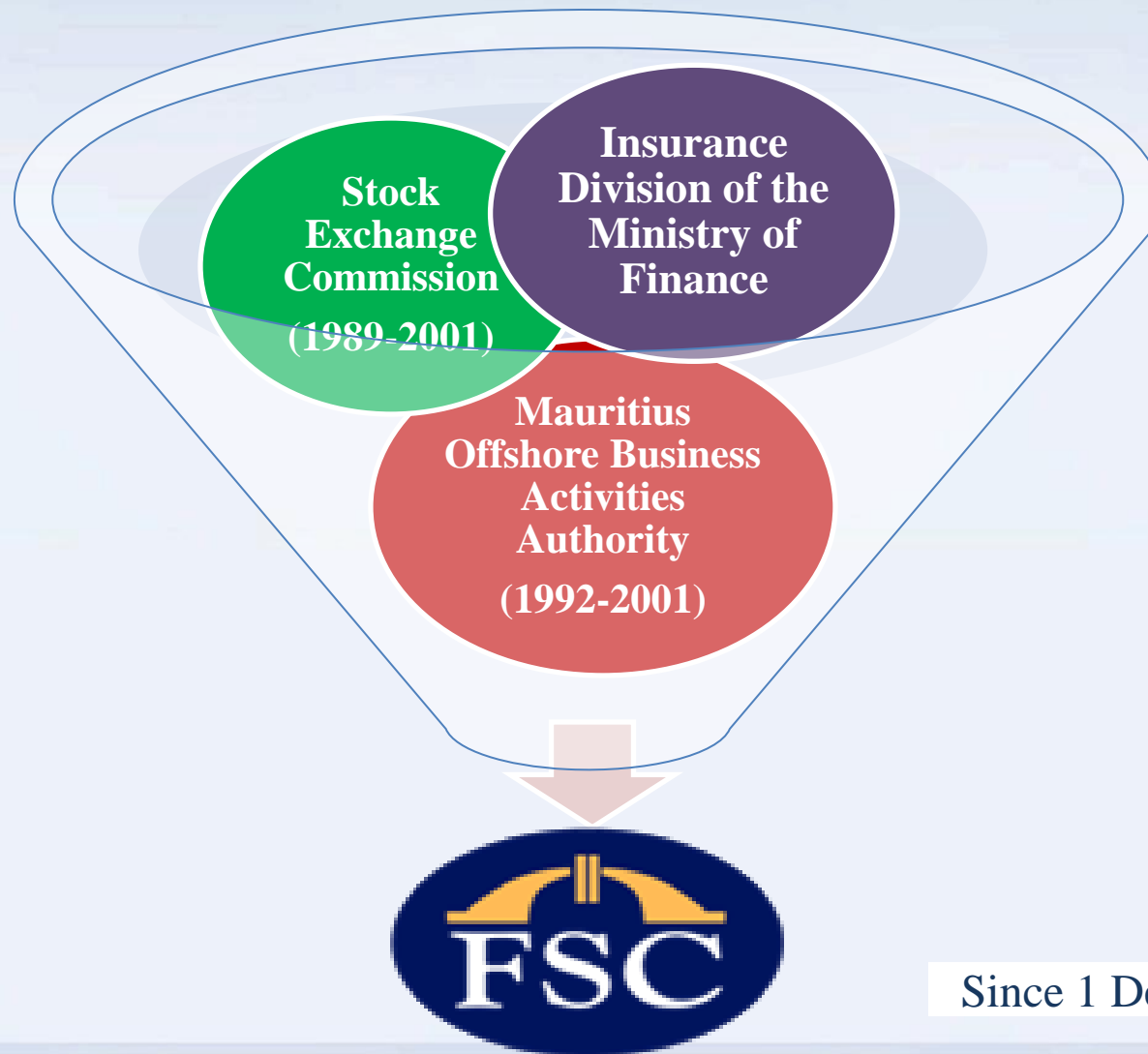
- Insurance
- Pensions
- Capital Markets
- Other NBFIs
- Global Business (GB)

- Banking Services

## Bank of Mauritius (BOM)



# Non-bank Financial Regulation Prior To 2001



Since 1 December 2001

# About Financial Services Commission

## Who we are

Set up in 2001 as an integrated regulator for financial services other than banking and global business

## What we do

- **Protect**
    - the integrity and stability of the non-bank financial services sector
    - the interest of investors and consumers
  - **Regulatory activities** to ensure integrity and financial soundness of licensees
  - **Sustain development of the financial services sector**
- (Objectives – Section 6 FSA)

## Vision

*“To be an internationally recognised Financial Supervisor committed to the sustained development of Mauritius as a sound and competitive Financial Services Centre”*

# Legal & Regulatory Framework

Mixed legal system: civil and common law

Right of appeal to Judicial Committee of the Privy Council

Confidentiality (with transparency) for Global Business

- Compliance with International norms and standards
  - IOSCO principles
  - IAIS principles
  - IOPS principles
  - OECD Principles
- FATF recommendations (AML-CFT)
- Peer reviews (ROSC)
- FSAP assessments

## Legislation

- Financial Services Act
- Insurance Act
- Securities Act
- Private Pension Schemes Act

- Companies Act
- Trusts Act
- Protected Cell Companies Act
- Limited Partnership Act
- Foundations Act
- FIAMLA
- Financial Reporting Act

- ✓ A flexible legal and regulatory framework for the financial services industry
- ✓ The right balance between regulation and business development



# **FSC: An internationally recognised Financial Supervisor**

**The FSC is a member of:**

## **International**

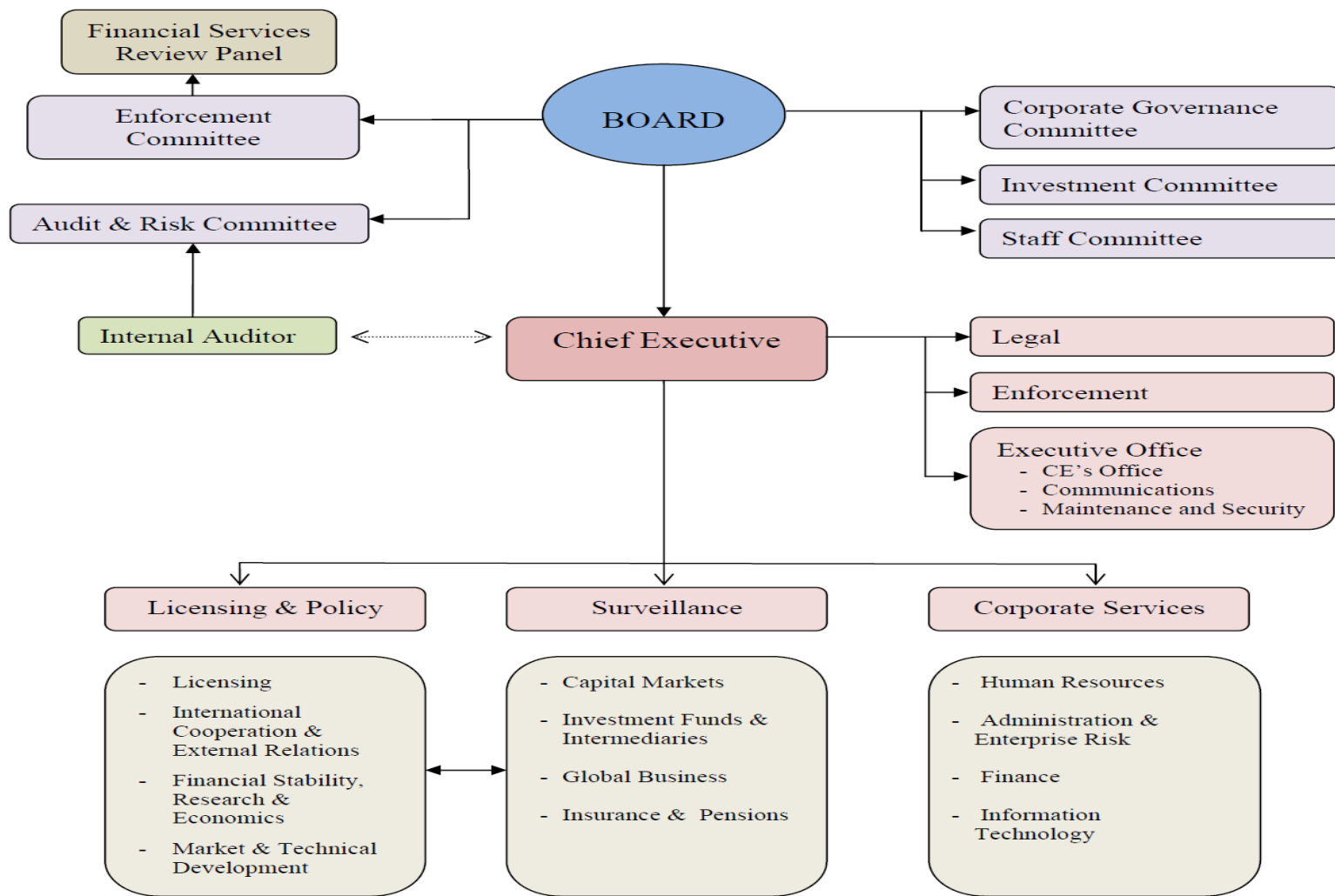
- International Organisation for Securities Commissions (IOSCO)
- International Association of Insurance Supervisors (IAIS)
- International Organisation of Pension Supervisors (IOPS)

## **Regional**

- SADC - Committee for Securities and Non-Bank Financial Authorities (CISNA)
- Africa Middle East Regional Committee (AMERC)
- Financial Services Board-Regional Consultative Committee (FSB-RCG) for Sub-Saharan Africa

# Financial Services Commission

## Organisation Chart



Policy - Governance

Execution



# Existing Legislation

## RELEVANT ACTS – Acts administered by the FSC

- **The Financial Services Act 2007** (28 September 2007)
- **The Securities Act 2005** (28 September 2007)
- **The Insurance Act 2005** (28 September 2007)
- **The Trusts Act 2001** (01 December 2001)
- **The Private Pension Schemes Act** (1 November 2012)
- **The Protected Cell Companies Act 1999** (01 January 2000)
- **The Securities (Central Depository, Clearing and Settlement) Act 1996** (27 January 1997)

## OTHER ACTS

- **Limited Partnership Act 2011** (11 November 2011)
- **Foundations Act 2012** (15 June 2012)

Revised Laws of Mauritius

**FINANCIAL SERVICES ACT**

Act 14 of 2007 – 28 September 2007

ARRANGEMENT OF SECTIONS

SECTION

**PART I – PRELIMINARY**

1. Short title
2. Interpretation

**PART II – THE FINANCIAL SERVICES COMMISSION**

3. Establishment of Commission
4. The Board
5. Objects of Commission
6. Functions of Commission
7. Powers of Commission
8. Meetings of Board
9. The Chief Executive
10. Delegation of powers
11. Technical committees

**PART III – THE FINANCIAL SERVICES CONSULTATIVE COUNCIL**

12. The Council
13. Objects of Council

**PART IV – REGULATION OF FINANCIAL SERVICES**

14. Requirement to be licensed
15. Application of Part IV
- Application for a licence
- Information and

...ation of licence  
**PENDING OBLIGA-  
TIONS**

statements  
**FUNCTION OF  
FINANCIAL**

consumers of  
...s and finan

**SELF-REGULA-  
TIONS**

26. ...ation or recognition  
**SRO**

34. Rules of an SRO

35. Restriction on decision

36. Obligations of and in  
officers of an SRO

37. Powers to direct a  
Termination of an

38. revocation of de  
recognition

39. Amendments to  
**SRO**

40. Protection for  
Annual report

**PART V**

## Sector wise Overview

# Legal Entities



The diagram features a central blue circle with a white border containing the text 'Legal Entities'. To the right of this circle are five horizontal bars of different colors, each preceded by a small circle of the same color. The bars are stacked vertically and contain the following text from top to bottom: 'Private and Public Companies (Companies limited by shares, guarantee or both)', 'Limited Partnerships', 'Trusts', 'Foundations', and 'Protected Cell Companies (PCCs)'.

Legal  
Entities

**Private and Public Companies**  
(Companies limited by shares, guarantee or both)

**Limited Partnerships**

**Trusts**

**Foundations**

**Protected Cell Companies (PCCs)**



# Sectors

What  
sectors fall  
under the  
purview of  
the FSC?



# Insurance

Under the Insurance Act, the FSC grants 8 types of licences:

1. Long term Insurance
2. General Insurance Business
3. External Insurer
4. Professional Reinsurer
5. Insurance Salespersons
6. Insurance Agent (Company)
7. Insurance Brokers
8. Insurance Agent (Individual)

14 Long Term Insurance Cos.  
12 General Insurance Cos.  
4 External Insurers  
7 Professional Reinsurers

Represent insurance service  
providers or intermediaries  
(over 2000)  
Brokers = 41 (26 Local &  
15 holding GBL)  
Agents = 227  
Salespersons = 2074 )

# Pension Schemes



## 1. Local (licensed)

- Occupational/ Non-occupational
- Established & regulated in Mauritius

## 2. External (licensed)

- Occupational/ Non-occupational
- GBC1; Established & regulated in Mauritius

## 3. Foreign (authorised)

- Occupational/ Non-occupational
- Established & regulated in a foreign jurisdiction

Approx. 1,500 private pension schemes  
50% are self-managed  
70% defined benefit (DB) schemes  
30% defined contribution (DC)  
6 licensed pension intermediaries



# Securities (Capital Markets - Funds)

## Securities Exchanges

- (i) **SEM** (Stock Exchange of Mauritius Ltd) - Operating 2 markets: *Official Market & DEM*
- (ii) **GBOT** (Global Board of Trade) - Multi-class Asset Exchange – Operating 3 derivatives segments: *currency & commodity, equity*

## Clearing & Depository Facilities

- (i) **CDS** – (Central Depository System) - a subsidiary of SEM for clearing & settlement of trade
- (ii) GBOT also has a licence under s10 of the Securities Act 2005

## Intermediaries

- (i) Investment Dealers & representatives
- (ii) Investment Advisors & representatives

## CIS & Functionaries

*Part VIII of the Securities Act 2005*

- CIS/ CEFs - s97
- CIS Managers – s98
- CIS Administrators – s99
- Custodians – s100

## Reporting Issuers

- (i) Under s86 of the Securities Act 2005

# Other NBFIs

## (non-banking financial institutions)

**15 different types of licenses are catered for under section 14 of the FSA**

- Assets management
  - Distribution of financial products
  - Pension fund administration
  - Pension scheme management
  - Registrar and transfer agents
  - Treasury management
  - Custodian (Non-CIS)
  - Credit finance
  - Factoring
  - Leasing
  - ▶ Actuarial services
  - ▶ Payment intermediary services
  - ▶ Credit rating agencies/rating agencies
  - ▶ Representative office
  - ▶ Other financial business activity
- However, this list is not exhaustive and the FSC Rules may provide for other financial business activities*

# Global Business

*Evolution*



**Mauritius  
Offshore Business  
Activities Act 1992**

OC

IC

GBC

**Financial Services  
Development Act 2001**

**Financial Services Act  
2007**

# Category 2 Global Business Licence

‘Resident Corporation’ =  
private company +  
BO: Non-resident

Business Outside  
Mauritius  
[Restricted  
Activities]

**Category 2  
Global Business  
Licence**

# Salient Features GBC2

Directors	Corporate Directors allowed
Dealings with residents	Not allowed
Activities	<p><b>A GBC2 can conduct any activity <u>except</u></b></p> <ul style="list-style-type: none"> <li>- Financial services including banking, holding or managing a CIS</li> <li>- Corporate services</li> <li>- Trusteeship services by way of business</li> </ul> <p><b>4<sup>th</sup> Schedule - FSA</b></p>
Licensing conditions	Standard
Accounts	To file financial summary within 6 months of financial year end
Tax Residency	Not taxable entity in Mauritius and consequently not entitled to Tax Residence Certificate
Beneficial Interest	Mauritian resident may not hold beneficial interest
Holding Property in Mauritius	May not hold property in Mauritius

# Category 1 Global Business Licence

## **‘Resident Corporation’**

[company, société, trust, partnership ...S71(7) FSA]

## **Business Outside Mauritius**

[Business should not be unlawful or cause prejudice of the good repute of Mauritius – S72(4) FSA]

## **Management And Control**

[2 resident directors, bank accounts in Mauritius... S71(4)FSA]

## **Category 1 Global Business Licence**



# Salient Features GBC1

<b>Directors</b>	Corporate Directors <b>not</b> allowed
<b>Dealings with residents</b>	Dealings with residents are permissible – subject to S71(6) FSA
<b>Activities</b>	<p>Proposed activities should not be:</p> <ul style="list-style-type: none"><li>(a) unlawful or contrary to public interest; or</li><li>(b) causing prejudice to the good repute of Mauritius as a centre for financial services</li></ul> <p>Regulated activities under the relevant Acts (Financial Services Act, Securities Act, Insurance Act, Private Pension Scheme Act)</p>
<b>Licensing conditions</b>	Licensing conditions depend on activity

# Salient Features GBC1

<b>Accounts</b>	Submission of audited (ISAs) financial statements (per IFRS) required within 3/6 months of financial year end
<b>Tax Residency</b>	Taxable entity in Mauritius and may as such qualify for Tax Residence Certificate issued pursuant to DTAAs to which Mauritius is a party
<b>Beneficial Interest</b>	Mauritian resident may hold beneficial interest
<b>Holding Property in Mauritius</b>	May hold immovable property in Mauritius if appropriate approval has been obtained from the Prime Minister's Office pursuant to the Non-Citizens (Property Restrictions) Act

**Regulate  
d Entity**



**Unregulated  
Activities**

**OR**

**Regulated  
Activities**

# GBC1 – Regulated Activities

## Financial Services Act

Assets Management  
Credit Finance  
Custodian services (non-CIS)  
Distribution of financial products  
Factoring  
Payment Intermediary Services  
Credit Rating Agency  
Leasing  
Pension Scheme Administrator  
Registrar and Transfer Agent

## Securities Act

CIS/ CEF  
CIS Manager  
Investment Adviser (Un/Restricted)  
Investment Dealers  
CIS Administrator  
Custodian

## Insurance Act

Insurance (LT/ General)  
External Insurer  
Professional Insurers  
Insurance Managers  
Insurance Brokers  
Insurance Agents

## Private Pension Schemes Act

Private Pension Scheme  
External Pension Scheme  
Foreign Pension Scheme

Category 1 Global Business Licence

# Management Companies (MC)

## – Service Providers

**AML-  
CFT**

Management  
Licence  
[S77(1)(a)]

Interface between FSC  
& Applicants for GBL

Corporate  
Trustees  
[S77(1)(b)]

Company  
Secretary to  
GBC1  
  
Registered  
Agents to  
GBC2  
[S76]

# Supervisory Framework

- **Regulatory requirements**
  - Financial
  - Governance
  - Market conduct
- **Licensing pre-conditions**
- **Supervision**
  - Risk-Based Supervision
  - Off-site analysis
  - On-site inspection
  - Ad-hoc and on-going monitoring tools

# Compliance Perspective

## Licensing



**Surveillance  
& Monitoring**

**Investigation  
Process**

**Enforcement  
Process**

Prevention Model

International norms and standards





# Enforcement Actions

- **Enforcement Policy**
  - Effectiveness & Efficiency
  - Fairness
  - Transparency, Proportionality & Consistency
- **Criteria for Enforcement Sanctions**
  - Refer the matter to the Enforcement Committee
  - Issue appropriate directions
- **Types of Sanctions**
  - Private Warnings
  - Public Censure
  - Disqualification of Licensees
  - Disqualification of Officers of Licensees
  - Administrative Penalties
  - Refer the case to the Police or DPP
  - Revocation of Licence

# Enforcement Actions - Challenges

- **Courts**
  - Give Financial Crimes its own merits
  - Co-ordination with the judiciary
    - Proper communication
    - Allocation of resources
    - No conflicting parallel proceedings
- **Lack of powers pertaining to civil & monetary penalties**
  - Possibility to impose dissuasive sanctions
- **Use of both non-criminal & criminal sanctions**
- **Fairness & Rule of Natural Justice**
  - Timeliness of actions
- **Enforcing the Powers of the Commission**
  - Sanctions for non-compliance with the Commission's orders or for providing false statements
- **Information Gathering/Access to Records**

Revised Laws of Mauritius

**FINANCIAL SERVICES ACT**

Act 14 of 2007 – 28 September 2007

ARRANGEMENT OF SECTIONS

SECTION  
**PART I – PRELIMINARY**

1. Short title
2. Interpretation

**PART II – THE FINANCIAL SERVICES COMMISSION**

3. Establishment of Commission
4. The Board
5. Objects of Commission
6. Functions of Commission
7. Powers of Commission
8. Meetings of Board
9. The Chief Executive
10. Delegation of powers
11. Technical committees

**PART III – THE FINANCIAL SERVICES CONSULTATIVE COUNCIL**

12. The Council
  13. Objects of Council
- PART IV – REGULATION OF FINANCIAL SERVICES**
14. Requirement to be licensed
  15. Application of Part IV
  16. Application for a licence
  17. Information and



**Opportunities and Challenges  
for Mauritius IFC**



# Mauritius International Financial Centre



The diagram features a large blue circle on the left containing the text 'Competitive Edge'. To its right, five smaller colored circles are arranged vertically, each followed by a descriptive text item. The colors of the circles are red, purple, orange, light purple, and teal from top to bottom.

## Competitive Edge

Expertise in Global Business - Pool of Qualified Professionals

Sound Regulatory Framework and Diversified products

Ethics and Corporate Governance

Competitive Operation Cost & Business Friendly Environment

Communication Network & High Internet Connectivity

# Tax Regime in Mauritius

**Uniform rate for Individuals and Corporates – 15%**  
**VAT – 15%**

## **Special Regime applicable to Global Business Companies**

➤ Tax credit for actual foreign tax paid

or

➤ Deemed Foreign Tax credit of 80%

**= Effective rate: 3%**

- Free Repatriation of investments
- No tax on Capital gains and Dividends
- No Estate Duty
- No Foreign Exchange Control

# Treaty Network:

38 DTAA's in force (5 Treaties awaiting Ratification\*)



As at 23 April 2013



## 38 IPPAs signed (23 in force)

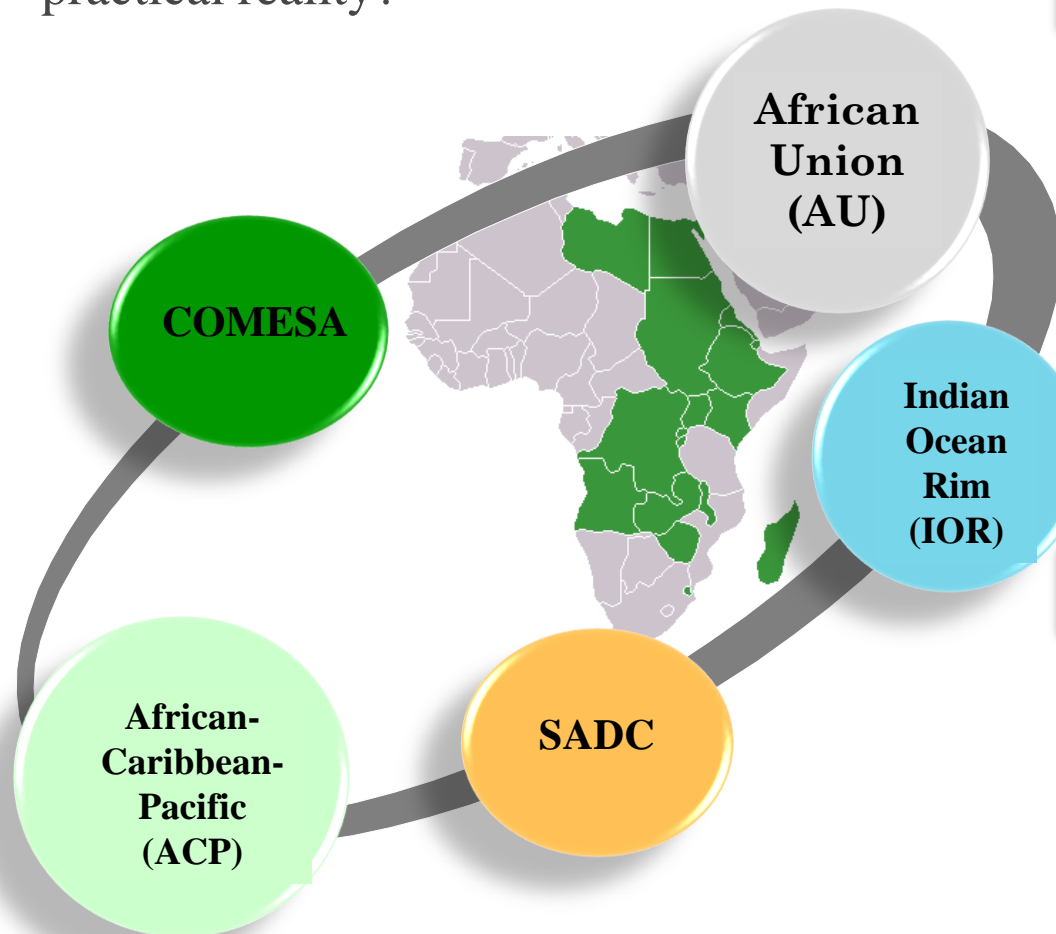


# Arbitration & Mauritius

- Increased Protection for Investment and possibility of Arbitration for Settlement of Disputes
- Enforcement of awards - New York Convention
- Low Cost Arbitration
- PCA - Permanent Court of Arbitration  
*the Hague and UNCITRAL Model*
- LCIA - London Court of International Arbitration  
*– joint venture with Mauritius*
- **Global Business automatic right to arbitration ?**

# Mauritius – An African Jurisdiction

How to convert that ‘notion’ into practical reality?



## COMESA

Common Market for Eastern and Southern Africa (**COMESA**) promote regional economic integration through trade and investment.

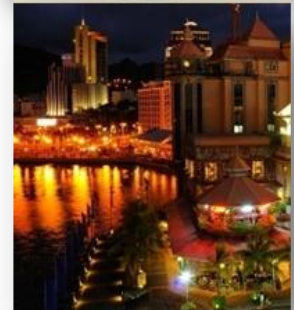
- 19 member states
- Population of over **389 million**
- Total GDP of **US\$ 472 billion**
- Annual import bill of around US\$ 32 billion with an export bill of US\$ 82 billion

COMESA - a major market place for both internal and external trading

Source: COMESA

## SADC

- SADC FTA - Regional market worth **US\$ 360 billion**
- Includes economies growing by up to **7%** a year.
- Population of over **170 million**
- Producers/ consumers: No import tariffs on an estimated 85% of all trade in Community goods in 12 countries
- SADC regional integration programmes:
  - Common Market – 2015
  - Monetary Union – 2016
  - Launch of a regional currency by 2018



## Vision

*“To be an internationally recognised Financial Supervisor committed to the sustained development of Mauritius as a sound and competitive Financial Services Centre”*

### Disclaimer:

- ❖ FSC draws your attention to the fact that this presentation provides an overview of the Financial Services Sector. The contents therein shall not be construed as a full reflection of the sector and does not purport to provide advice.

# References

- FSC - - <http://www.fscmauritius.org/>
- IOSCO - <http://www.iosco.org/>
- IAIS - <http://iaisweb.org/>
- IOPS - <http://www.oecd.org/site/iops/>
- FSI - <http://www.bis.org/fsi/aboutfsi.htm>
- BASEL - <http://www.bis.org/publ/bcbsca.htm>
- IMF - <http://www.imf.org/external/index.htm>





**Financial Services Commission**  
Mauritius

**54 Ebene Cybercity  
Mauritius**

**Tel: (230) 403 7000**

**Fax: (230) 467 7172**

**Email: [fscmauritius@intnet.mu](mailto:fscmauritius@intnet.mu)  
[www.fscmauritius.org](http://www.fscmauritius.org)**