



# Financial Services Commission Mauritius

## CIRCULAR LETTER CL031215

03 December 2015

To: The Directors,  
Management Companies

Dear Sir/Madam,

### Off-Site Supervision Procedures

This Circular Letter aims at standardising the procedures and business practices to ensure a uniform approach and an efficient collaboration between the Financial Services Commission (the "Commission") and Management Companies ("MCs")/Registered Agents ("RAs") thereby reducing unnecessary processing delays.

This Circular Letter elaborates practices applicable to companies holding a Global Business Licence ("GBL"). Companies holding activity licence(s) in addition to a GBL shall comply with additional requirements as may be applicable under the relevant Acts.

#### **1. Removal of a company holding a GBL from the register of companies under the Companies Act 2001 or winding up under Insolvency Act 2009**

1.1. Where an application has been made by a Global Business Company ("GBC") to be removed from the register of companies under the Companies Act 2001 or wind up under Insolvency Act 2009, the Registrar of Companies ("ROC") may require the 'no-objection' of the Commission. In order to avoid delays in granting its 'no-objection', MCs/RAs are required to forthwith provide the Commission with the following in one single pack:

- a) A certified true copy of the shareholders' resolution to that effect;
- b) The original GBL of the GBC;
- c) All outstanding accounts as may be applicable, namely:
  - (i) Audited Financial Statements;

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- (ii) Management Accounts to the date of shareholder's resolution;
  - (iii) Financial Summaries.
- d) An undertaking from the MC/RA to the effect that all outstanding annual licence fees/charges/administrative penalties have been settled.
- 1.2. The Commission shall provide its 'no-objection' to the removal/dissolution of a GBC to the ROC, by email, with a copy to the MC/RA.
- 1.3. A GBC may rescind its winding up after an initial resolution for winding up has been passed. The Commission shall not consider the rescinding of a winding up if same exceeds 2 years after the date of the initial resolution for winding up.
- 2. Change in shareholding structure of a GBC**
- 2.1 The MC/RA shall promptly notify the Commission whenever there is a change in the shareholding structure of a GBC and shall provide the following information in one single pack:
- a) Name, address and passport/ID number of the new shareholder(s);
  - b) The effective date on which the shares have been transferred/allotted to the new shareholder(s);
  - c) Undertaking that the MC/RA has conducted Customer Due Diligence ("CDD") checks on the new shareholder(s) and that all CDD documents shall be made available, upon request, to the Commission;
  - d) An updated structure chart of the GBC; and
  - e) A complete and updated register of shareholders post the change of shareholding structure.
- 2.2 The MC/RA shall no longer be required to submit to the Commission copies of statutory filing made to the ROC as evidence of the change in the shareholding structure.

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### **3. Change in Business Purpose**

- 3.1 Where there is a change in the business purpose of a GBC, the MC/RA shall promptly inform the Commission and submit an updated business plan and shareholder's resolution to that effect.
- 3.2 The business plan of a company holding a Global Business Category 2 Licence ("GBC2") shall be accompanied by a confirmation signed by a director of the GBC2 to the effect that the business activities of the GBC2 complies with the requirements of the law.

### **4. Change in beneficial ownership**

- 4.1. Where there is a change in the ultimate beneficial ownership/beneficial ownership/controller of a GBC, the MC/RA shall promptly notify the Commission. The notification shall be accompanied by the following information:
  - a) Contact details of the new ultimate beneficial owner/beneficial owner/controller of the GBC; and
  - b) Updated shareholding structure of the GBC depicting the percentage of shares held by each shareholder and illustrating the structure up to the ultimate beneficial owner/beneficial owner/controller level.
- 4.2. Where a change in the ultimate beneficial owner/beneficial owner/controller have an effect on numerous other GBCs (for example a GBC which forms part of a group), the MC/RA shall inform the Commission of the change in the ultimate beneficial owner/beneficial owner/controller for each respective GBC separately.

### **5. Termination of services by MC/RA**

- 5.1. Where a MC/RA no longer wishes to continue its business relationship with a GBC, the MC/RA shall take reasonable steps to ensure that the ultimate beneficial owner(s) is/are duly notified that a GBC is required, at all times, to have a MC/RA and that non-compliance with

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this requirement may result in suspension of the GBL.

- 5.2. Where the MC/RA proposes to resign, it shall give prior notice in writing to the ultimate beneficial owner(s). The notice period shall be the duration as may be stipulated in the management agreement between the GBC and the MC/RA; and if no notice period was stipulated, at least 60 days before the effective date of resignation. The notice by the MC/RA to the ultimate beneficial owner(s) shall include reasons for its resignation and shall be copied to the Commission.

## **6. Change in MC/RA**

- 6.1. Where there is a change in MC/RA, such change shall be notified to the Commission by both the incoming and the outgoing MC/RA.
- 6.2. Prior to accepting an existing GBC, the incoming MC/RA shall be required to conduct a full review of the files of the GBC in order to ascertain that it is in good standing and in compliance with legal requirements.
- 6.3. The incoming MC/RA shall be held responsible and accountable for all the records of the GBC once the takeover is complete.
- 6.4. No MC/RA shall refuse to handover the files and documents pertaining to the GBC to the incoming MC/RA under any pretext, including non-payment of fees; such issues shall be dealt with separately.

## **7. Misplaced/Lost licence**

- 7.1. Where the original GBL has been misplaced/lost, the MC/RA shall promptly report the loss of the licence to the Police, the Commission and the board of directors of the GBC.
- 7.2. The MC/RA shall make a request to the Commission for a replacement licence, accompanied by the following information:

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- a) evidence that the loss of the licence has been reported to the Police; and
- b) a resolution of the directors of the GBC, taking note of the loss of the licence.

## **8. Restoration of GBC**

8.1. Where a GBC has been removed from the register of companies, the latter is deemed to no longer exist and therefore it does not hold a valid GBL.

8.2. The restoration of a GBC to the register of companies does not automatically restore its GBL. Where the company wishes to continue to hold a GBL post its restoration, it shall make a fresh application for a GBL to the Commission.

8.3. Where a GBC applies to the ROC to be restored to the register of companies, the ROC may request the Commission for its 'no-objection' in relation to the restoration.

8.4. The Commission may issue its no-objection subject to the following information being submitted in one single pack:

- a) Confirmation that the GBC has restored its good standing in terms of fees and accounts due up to the date on which its GBL has lapsed or was removed from the register of companies, whichever occurred first;
- b) An undertaking to the Commission to the effect that the GBC has not transacted any business without a valid GBL; and
- c) the original GBL.

## **9. Change in Registered Office address of a GBC**

9.1. Where there is a change in the registered office ("RO") of a GBC, the MC shall promptly notify the Commission of the change in the RO.

9.2. The notification to the Commission shall include:

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- a) The rationale for the change in the RO;
- b) Details of the measures put into place by the MC/RA to ensure access to all statutory records at all times; and
- c) Certified true copy (if any) of the agreed written procedure/arrangement between the GBC and the MC/RA with respect to access to records and documents.

**10. Change of Name**

10.1. When a GBC changes its name, the MC/RA shall ensure that the original GBL of the GBC is annotated accordingly. In this respect, the MC/RA is required to provide the Commission with the following documents in one single pack:

- a) Certificate of Incorporation on change of name;
- b) A resolution of the board of the GBC to that effect; and
- c) The original GBL.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P.K. Kuriachen', is written over a horizontal line.

P.K Kuriachen

**Acting Chief Executive**