

# ATMC

*Association of Trust and Management Companies*

## Message from President—Mr Kamal Hawabhay

Dear Members,

For some or for perhaps most of us, the year coming to a close is probably a good thing!

It has been a year with plenty of hard work, hopefully mostly rewarding while some merely to clear roadblocks or to comply with various regulatory burdensome requirements, for all of us amidst tall challenges, both internationally and at home.

We have witnessed hitherto unfathomable changes to the India DTA, the finalization of BEPS action plans, challenges from treaty partners, the forthcoming CRS, threats from EU, negative impacts on professional directors' liability amongst others! Yet, we have no choice but to welcome 2017 with albe-

it guarded hope and plenty of resolve to meet the roadblocks head on.

I invite you to review the second ATMC Newsletter which contains valuable information and reports designed to ease your doing of business. I commend our ATMC Secretariat and our ATMC CEO for the effort made in compiling this newsletter so professionally. Our effort is to issue such newsletters more regularly to you in the New Year.

Your ATMC Managing Committee has again worked very hard during the past year and attended several meetings at the highest level to put across your views and concerns and I can assure you that we have defended our stands tooth and nail, with varying degree of suc-

cess, as can be reasonably expected. Nevertheless, I am pleased to report that ATMC is steadily viewed as a much valued and unavoidable partner in most if not all relevant decision making forums relevant to our industry. This would not have been possible without YOUR support...so a big thank you goes to you!

The flip side of the challenge coin is opportunity and my wish to all members, as the New Year dawns upon us, is to be resolute in seizing whatever opportunity which is bound to come our way next year, even if amidst choppy waters!

ATMC Managing Committee and our Secretariat join me to wish you a very Happy New Year 2017!

### Our Mission:

- To promote the growth and sustained development of the Global Business industry and ancillary services
- To unite under a single organisation persons, individuals, corporate and groups providing services in the Global Business industry
- To encourage closer cooperation between members of the Association;
- To work in close collaboration with Government agencies, Tax Authorities and the Regulator on industry issues.

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## Message from CEO—Mrs Veena Soyjaudah

Dear Valued Members,

The ATMC is pleased to issue its second Newsletter which provides a glimpse of all the major tasks undertaken over the past few months.

As we end this year, we must recognise that 2016 has been a rather hectic and challenging year with major happenings such as the revision of the India-Mauritius DTAA, the BEPS framework, EU blacklist, CRS, DFTC and MLI amongst others. In addition to increasingly burdensome regulatory requirements, operators also faced several issues of technical na-

ture which were affecting the efficiency of their operations. The ATMC is mindful of the expectations of its Members and has worked relentlessly with a view to bringing satisfaction to them. This year has also been full of interactions with regulatory and policy-making authorities, on a plethora of issues, which is a recognition that ATMC is a key party and that its voice matters!

On a personal note, I feel privileged to be part of ATMC and my first 8 months at the Association have been most fulfilling and rewarding. It has indeed been a pleasure to work with a

very cooperative and supportive Managing Committee.

I seize this moment to thank you for your support, collaboration and trust placed in ATMC. 2017 is expected to be even more challenging for the sector but I wish to assure you of the unfailing support of the ATMC Secretariat. As 2016 closes, let us pray that the new dawn that will welcome 2017 will also bring with it lots of opportunities and prosperity for the Global Business sector.

I wish you and your families a blessed New Year 2017!



## Personal Liabilities of Resident Directors

Some members have received strong letters from the MRA in which Resident Directors were being held personally liable for unpaid corporate taxes. Enforcement actions were being envisaged against those Resident Directors. The MRA was relying on the case **Chiniah v/s The Commissioner of Income Tax (Mauritius) [2007] UK PC23** to qualify Resident Directors as ‘agents’. Considering that Resident Directors are independent non-executive directors and as such cannot be deemed to be principal agents of a GBL1, the ATMC

took up the matter with the concerned Authorities. Following a meeting on 30 November 2016t at the MRA, the latter reassured that it would not go to the extent of claiming unpaid taxes from seizure and sale of personal assets of directors of GBL1 entities even though technically these directors are liable, but provided they are cooperative with the tax authority and do not fail to discharge their duties as directors. The MRA also informed that no enforcement actions have so far been taken towards the Directors of GBL1s.

This was communicated to Members on 29 December 2016.

## Renewal of Tax Residence Certificate

*“Henceforth, TRC renewal applications would be accepted one month before its expiry and the TRC will be processed within the month the TRC will expire.”*

The MRA has acceded to the request of the ATMC and has agreed to review its procedures for the renewal of Tax Residence Certificate and align



them with those of the FSC. Henceforth, TRC renewal applications would be accepted one month before its expiry and the TRC will be processed within the month the TRC will expire. This was communicated to Members on 13 September 2016.

## Meeting on CRS



OECD  
COMMON  
REPORTING  
STANDARD

The ATMC attended a CRS meeting at the MRA during which the proposals and suggestions received by stakeholders were taken into consideration. ATMC Members were also requested to send their comments to the Secretariat.

## Meeting at FSPA

The ATMC participated in a working meeting organised by the FSPA where representatives of the financial services sector were invited and during which the FSPA discussed and presented its key initiatives and actions for the Financial Year 2016/2017



## Meeting on CECPA

The ATMC attended a meeting at the Ministry of Foreign Affairs, Regional Integration and International Trade in relation to the Comprehensive Econom-



ic Cooperation and Partnership Agreement between India and Mauritius. The Chapter on Financial Sector Services was updated in the CECPA and only factual information has been included on the Global Sector at this stage as India only wishes to get a list of the services that Mauritius could offer and their relative importance in the Mauritius economy. Negotiations and discussions are likely to take place next year.



## Letter to Registrar of Companies on Section 53(5) of the Limited Partnership Act



A letter was addressed to the Registrar of Companies (ROC) to seek clarifications on the application of section 53(5) of the LPA 2001 to Global Business (GB), as this would amount to duplication. The office of the ROC has verbally informed that Section 53(5) does not apply to Limited Partnerships that hold a GB licence. However, we have requested

the ROC to provide us with a written confirmation so that we can communicate the information to our members and for records purposes.

*“Section 53(5) does not apply to Limited Partnerships that hold a GB licence.”*

## Meetings with Permanent Court of Arbitration (PCA) & Chartered Institute of Management Accountants (CIMA)

The ATMC met with representatives of the Permanent Court of Arbitration (PCA) at the ATMC office on 7 November 2016 during which they indicated that they wish to organise a seminar, with the support of the ATMC. The aim of the Seminar is to explain the benefits offered by PCA to ATMC members.

The ATMC also met with the representatives of the Chartered Institute of Management Accountants (CIMA) 9 November 2016 at the ATMC Office. The CIMA made a formal request seeking the ATMC's assistance to have access to ATMC members so that they can present their Certificate, Diploma and Advanced Diploma in global business services. CIMA has indicated that they would be

more than happy to host an event that will enable them to speak to our members and to have the possibility to provide some information and choices.



## MRA Survey Form on DFTC

A Survey Form prepared by the MRA was circulated to Members to gather data on foreign tax credit claimed by GBC 1 entities. Following responses received, the ATMC communicated that most MC clients opt for the user friendly DFTC method given the certainty that this method provides and given the difficulty of obtaining appropriate supporting documents in support of foreign taxes actually paid. Given that the actual tax suffered method is not often used and consequently, relevant reliable data are not systematically compiled by

MCs, the ATMC informed that the figure for actual tax suffered will be materially understated in the survey and that any conclusion reached in respect of such actual foreign tax suffered against DFTC claimed, might be erroneous. ATMC also pointed out that MCs are already overburdened by surveys from various quarters including the FSC that it is highly unlikely that MCs will volunteer participation to such a survey.

*“BSP has agreed to work on a time-table whereby it shall have 4 exam sittings namely in the months of March, June, September and December.”*

## Meeting with ACCA Course Provider

Members have reported that they were encountering operational difficulties during June and December as employees sitting for ACCA exams apply for study leaves. In that regard, the ATMC met with the representatives of BSP School of Accountancy & Management. The latter has agreed to come up with a 1 term intensive course of 6 weeks to ensure that those students who failed their exams marginally can re-sit in

September itself instead of waiting for the December sitting and thereby overcoming the shortage of staff faced by MCs during peak period. BSP has also proposed to work on a time-table whereby it shall have 4 exam sittings namely in the months of March, June, September and December.



## Participation in the Ebene Chain 2016

The ATMC participated in the “Ebene Chain” which was held on 19<sup>th</sup> August around Ebene between 12H00 to 13H00.

The aim of this initiative was to express our Support, Courage and Hope to those presently fighting cancer, their families, and all those helping to combat cancer.

The Ebene Chain took place whereby all participants held hands in a chain for 10 minutes.

There was also a release of Helium balloons by Main Sponsors, cancer survivors and students in remembrance of those who have lost their lives fighting cancer.

The ATMC believes that the Ebene Chain was a great opportunity for the Ebene community to unite around a great cause.



Mr Bob Bachun; Mrs Veena Soyjaudah

## Financial Support for UOM Trust Student



The ATMC had received a request for financial support from a university student, Yuvnesh Pokhot who is following a BSc (Hons) in Banking and Investment at the UOM Trust. Members were informed of the case and a total of MUR170,625 was received. The ATMC wishes to thank all those who have supported the student. The total contribution received was remitted to him on 30 December 2016.

## New Members



We are pleased to announce that 3 New Members have joined our Association during the period August–December 2016. They are as follows:

1. SAB&T International Financial Consulting
2. RMB Structured Insurance PCC
3. Juristax Ltd

## Statistics Mauritius



The ATMC met with representatives of Statistics Mauritius with a view to clarifying several grey areas pertaining to compilation of statistics for the global business sector have been clarified.

Statistics Mauritius has informed that a Committee of Statistics Board on Financial Sector Statistics has been created and ATMC has been invited to form part of therein.

ATMC CEO has been delegated to participate in that Committee.

## Finance Act 2016

Following the announcement of the Finance (Miscellaneous Provisions) Bill 2016, a Tax Sub-Committee was convened on 14 September 2016 with a view to identifying and analyzing the amendments made to the various legislations and their implications for the Global Business Sector. Some of these were raised at the FSC Quarterly meeting.



## FSC-ATMC Quarterly Meeting



*“The First FSC –ATMC Quarterly Meeting was set up in March 2014”*

The ATMC had a quarterly meeting with the FSC on 24 October 2016 where the following issues were discussed:

- ◆ Corporate governance report (the “Code”)
  - ◆ Acceptance of Electronic Utility Bills
  - ◆ FSC Administrative Penalty Rules
  - ◆ Captive Insurance Business-Captive Insurance Rules
  - ◆ Grey area in relation to lapsing of GBC license.
  - ◆ Directorship
  - ◆ Managed Corporate Service Providers (MCSP) – PN 010105
  - ◆ Protection of Global Business
- ◆ Service Providers
  - ◆ Introduction of Limited Liability Partnerships (LLPs) in Mauritius
  - ◆ Registered Agent
  - ◆ Special Data Dissemination Standard (SDDS) requirements for IMF Monetary and Financial Statistics (MFS) Quarterly survey (the “Survey”)
  - ◆ Budget measures
    - a. Treasury Management Centre License & Global Headquarters Administration License.
    - b. A new Global Legal Advisory Services License.
    - c. Overseas Family Corporation license.
    - d. Tax holidays.
- ◆ Proof of address
  - ◆ Offsite Procedures
  - ◆ South Africa - Reinsurance Regulatory Review Position Paper

## Meetings with Indian High Commissioner



**HIGH COMMISSION OF INDIA**

On 15 August 2016, the ATMC attended a reception to celebrate the 69th anniversary of India's Independence.

On 31 August 2016, the ATMC paid a courtesy visit to the new High Commissioner of India - Mr Abhay Thakur. The ATMC conveyed its concerns on the recently signed protocol between India & Mauritius.

On 13 September 2016, the

ATMC also attended a dinner Invitation in honour of the new High Commissioner

On 26 September 2016, the ATMC attended a ceremony on the issue of Overseas Citizenship of India card to the Mauritian nationals, following discontinuance of the issue of PIO cards since 9th January 2015. It was followed by an interactive session with all the relevant stakeholders on 'India's out-

reach activities' with the visiting delegation.

## Revival of Captive Insurance Sub-Committee



With the Captive Insurance Act 2015 being currently effective, the ATMC revived its Captive Insurance Sub-Committee whereby a brainstorming session was held on 08 December 2016. The meeting was chaired by Mr Richard Li. The Sub-Committee had a second meeting to have deeper discussions on issues related to Third Party Captives.

## Interactions with Prof Philip Baker

The ATMC had two meetings with Prof Baker namely on 16 and 17 December 2016 during which the ATMC conveyed its views on the Deemed Foreign Tax Credit, Multilateral Convention and Base Erosion and Profit Shifting. The ATMC submitted its proposals to Prof Baker and requested him to take these into account in his Report to the Government of Mauritius on this matter.



## Meeting with MRA



The ATMC had a meeting with the Mauritius Revenue Authority (MRA) on 30 November 2016. The meeting was chaired by the Director General of the MRA, Mr Sudhamo Lal.

The following issues were discussed:

1. TDS
2. Personal Liability of Directors

3. Applicability of the MRA Statement of Practice (SP 14/16) to Global Business entities.

A brief was communicated to Members on 29 December 2016.

## MIOD Seminar on 13 December 2016

The ATMC was invited to make a presentation on “The Future of MCs in the light of the changing landscape” at the MIOD Seminar held on 13 December 2016 at Labourdonnais Hotel. A Sub-Committee chaired by Mr Assad Abdullatiff, Member of ATMC Managing Committee, was held on 09 December 2016 to discuss on the topic.

A copy of the presentation was circulated to Members on 22 December 2016. The ATMC wishes to thank the Members who have contributed to the Sub-Committee.

## Revamping of ATMC Website

The ATMC is revamping its website with the view to enabling more visibility and to be in line with the expectations of our Members. The new website is currently being updated by the Secretariat and shall be ready in the first two weeks of January 2017.





*Association of Trust and Management  
Companies*

R102 Moka Business Centre, Mount Ory Road,  
Bon Air, Moka

Phone: +230 432 0074  
Fax: +230 432 0076  
E-mail: [info@atmcmauritius.org](mailto:info@atmcmauritius.org)

## Managing Committee 2016-2017

The Managing Committee for the period 2016-2017 is as follows:

<b>President:</b>	<b>Kamal Hawabhay</b> ( <i>Global Wealth Management Solutions Ltd</i> )
<b>Vice-President:</b>	<b>Shahed Hoolash</b> ( <i>Deutsche International Trust Corporation Limited</i> )
<b>Secretary:</b>	<b>Richard Li</b> ( <i>Rogers Capital</i> )
<b>Asst. Secretary:</b>	<b>Assad Abdullatiff</b> ( <i>AXIS Fiduciary Limited</i> )
<b>Treasurer:</b>	<b>Bob Bachun</b> ( <i>Mauritius International Trust Company Limited</i> )
<b>Asst. Treasurer:</b>	<b>Madvi Jeebun</b> ( <i>DTOS Ltd</i> )
<b>Members:</b>	<b>Francoise Chan</b> ( <i>Intercontinental Trust</i> ) <b>Caroline Leclezio</b> ( <i>ENSafrica Fiduciary</i> ) <b>Ashish Jagarnath</b> ( <i>International Proximity</i> )

[www.atmcmauritius.org](http://www.atmcmauritius.org)

