



# INTERCONTINENTAL TRUST

*International Tax & Management Services*

INTERCONTINENTAL TRUST NEWSLETTER

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## SETTING UP YOUR PRIVATE PENSION SCHEME (“PPS”) IN MAURITIUS

The long awaited Private Pension Scheme Act came into force on the 1<sup>st</sup> November 2012 and is expected to boost the market in the country’s thriving financial services industry

### THE PRIVATE PENSION SCHEME ACT 2012

Under the Private Pension Scheme Act (“PSSA”), it is now possible to set up an External Pension Scheme in Mauritius whereby international pension schemes may be created and administered for non-residents members.

The PPSA aims to strengthen our current system’s regulatory and supervisory framework whilst offering the confidence to investors and beneficiaries that their assets are protected. It further lays down requirements on fair treatment of beneficiaries and the financial soundness of pension fund valuations. The PPSA was designed to satisfy the standards set by international organisations like the IOPS (“International Organisation of Pension Supervisors”) and the OECD (“Organisation for Economic Cooperation and Development”).

The objectives of the PPSA include inter-alia:

- The harmonisation of the requirements under different Acts namely, the Employees Superannuation Fund Act, Trust Act, Insurance Act and Financial Services Act and introduced a single comprehensive Act on Private Pension Scheme (“PPS”);

- The transfer of the regulatory power to a single body, the Financial Services Commission (“FSC”), for approval and supervising of pensions plans and ensuring compliance;
- The creation and maintenance of a transparent and risk-efficient legal framework.

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## CATEGORIES OF THE PPS

A PPS can be categorised into the following:

### Pension Scheme

Pension scheme generally means a scheme which is regulated in Mauritius and provides pension benefits to beneficiaries in Mauritius.

### External Pension Scheme

External pension scheme means a scheme which is regulated / administered in Mauritius and holds a Category 1 Global Business Licence. It targets individuals outside of Mauritius.

### Foreign Pension Scheme

Foreign pension scheme means a scheme which is regulated in a foreign jurisdiction and is allowed to operate in Mauritius to cover Mauritian-based members/ beneficiaries. Under this arrangement, Mauritian employers can subscribe to pension plans incorporated abroad. The Scheme must at all times have an agent (approved by the FSC) in Mauritius.

The PPS, however, does not include the following:

- Funds under the National Pensions Act and the National Savings Fund Act.
- Funds under the Civil Service Family Protection Scheme Act.
- Funds under the Statutory Bodies Family Protection Fund Act and the Statutory Bodies Pension Funds Act.
- Funds under the Sugar Industry Pension Fund Act.
- Pension contribution under the Local Authorities (Pensions) Act.
- Long-term insurance business relating to individual pension schemes or plans as specified in Part I of the First Schedule to the Insurance Act

- Associations registered under the Registration of Associations Act and which provide retirement benefits to their members.

## FEATURES OF THE PRIVATE PENSION SCHEME

- Must be structured as Trust or Foundation or Shall use a Trust or Foundation as the legal vehicle for pension funds.
- The Governing Body will be the board of trustees in case of Trust or the Council for a Foundation.
- Members of the governing body shall appoint annually a chairperson, vice chairperson and contact person.
- Various disclosure rules are applicable. Disclosures to be made to the FSC and beneficiaries.
- Requirement to submit audited financial report and actuarial valuation report.
- Actuarial valuation to be undertaken periodically to ensure funding levels.
- Shall meet technical funding, comply to valuation methods and other provisions that ensure the scheme remains financial sound.
- Termination of a private pension scheme cannot be effected without the approval of the FSC.
- The PPSA allows for certain provision of the Trust Act to be waived. Henceforth there will be no requirement for a Qualified Trustee to be appointed and the limitations on the maximum number of trustees set to 4 shall no longer be applicable.

## EXTERNAL PENSION SCHEME (“EPS”)

The governing body of an External Pension Scheme (“EPS”), shall consist of at least 3 persons, of which 2 shall be resident in Mauritius; and in an Employer sponsored External Pension Scheme, a third of the governing body shall be elected by the scheme members.

## CORPORATE STRUCTURE OF AN EPS

The corporate structure of an EPS consists of different functionaries, namely the Pension Scheme Administrator, the Actuary, the Auditor, the Investment Advisor/Asset Managers/CIS Managers, Custodian and long term insurer, as shown in Diagram 1 Below:

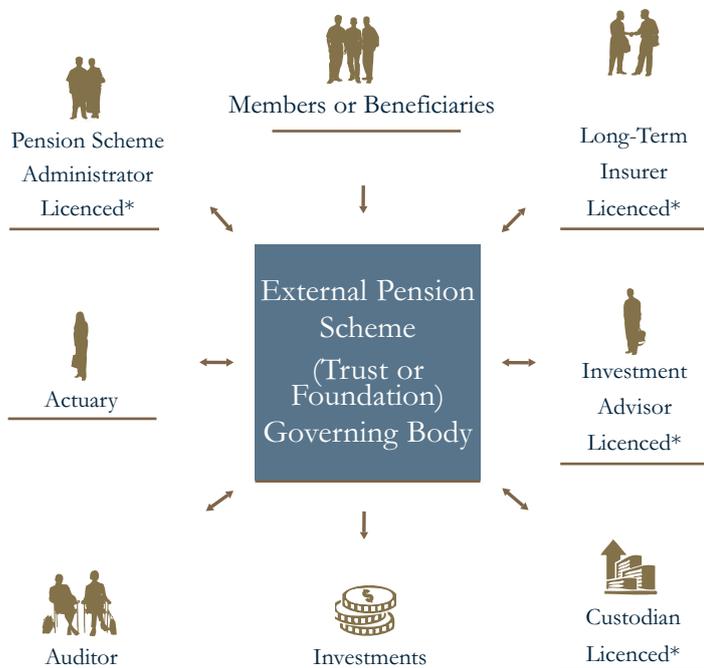


Diagram 1: The Corporate Structure of an EPS.

The EPS may be administered by its governing body where the governing body is so authorised, subject to FSC Rules devised by the Commission. The Governing Body must also comply with a set of comprehensive rules set to protect the beneficiaries’ assets.

\*Licenced and regulated by the FSC.

## ADVANTAGES OF SETTING UP AN EPS IN MAURITIUS

- Mauritius provides for one legal framework (PPSA) that encompasses globally approved regulatory and disclosure obligations.
- Availability of Flexible and tax-efficient vehicles for global investment.
- Maintains a good governance framework for the proper management of the pension fund’s asset.
- Provide a comprehensive structure protecting the best interests of the beneficiaries.
- Asset protection for the members of the schemes.
- Tax-efficient return on benefits payment at maturity of retirement plan.
- Can invest in global investment using Mauritius Investment Advisors as they may be subject to limitations in some countries.
- Use of Foundation as an attractive vehicle for civil law jurisdiction where trust arrangements may not be recognized during repatriation.
- Mauritius jurisdiction provides for trust and foundation characteristics that are suitable for institutional pension funds and contractual pension funds types.
- No Foreign Exchange controls.

## **TAX TREATMENT OF AN EPS**

The EPS, being tax resident in Mauritius, will be liable to tax under the Income Tax Act 1995, at a rate of 15%. However, the EPS, being holder of a GBL 1, will be entitled to claim either the deemed foreign tax credit of 80% or the actual foreign tax credits whichever is greater. This reduces the tax liability to a maximum effective rate of 3% on its foreign sourced income.

Any gains derived by the EPS on disposal of securities will not be subject to tax under Mauritian laws.

EPS are designed to trigger benefit payment, usually in the form of annuity, when the pension scheme reaches maturity, at the stated retirement age. The distributions of the EPS (in this case, pension benefits) to non-resident beneficiaries are not subject to tax in Mauritius.

## **HOW CAN INTERCONTINENTAL TRUST LIMITED (“ITL”) HELP?**

As per the FSC Rules, the contact person of an external pension scheme shall be a licensed management company.

ITL, being licensed as a management company, can provide for Trustee or Founder Member and the following general services with respect to the setting up and on-going administration of the EPS:

- Advice and assistance on the formation of the Pension Scheme either as a Trust or a Foundation
- Assistance in drafting of relevant documents (Trust Deed, Memorandum of Wishes, Foundation Charter or Articles etc).
- Assistance with drafting of Scheme Rules describing benefit and contribution structure.
- Application with the FSC for a Category One Global Business Licence and Pension Scheme Licence
- Provision of a registered office
- Acting as Governing Body for the Scheme
- Opening of bank accounts, custodian accounts or other investment broker accounts in and outside Mauritius
- Assistance in drafting of Scheme booklet and other information to be given to employees before joining as required by the FSC Rules on disclosure
- Liaison with lawyers and other parties
- Assistance in drafting or review of annual reports and other communications issued by the governing body.
- Provision of standard pension administration services including membership record-keeping, benefit calculations, production of annual accounts ready for audit and issue of annual benefit statements to members.

ITL can also assist in the setting up and on-going administration of other parties of the EPS, namely:

- Investment Adviser
- CIS Manager
- Asset Manager

The general services with respect to the setting up and on-going administration of the above-named structures will be:

- Advice and assistance on the formation of the company
- Provision of a registered office
- Provision of two Mauritius Resident directors
- Provision of company secretarial services
- Maintenance of statutory records
- Assistance with the opening and operation of bank accounts
- Ensuring accounts / accounting records are in place
- Tax computation and compliance, where applicable.



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**Intercontinental Trust Ltd is regulated by the Financial Services Commission in Mauritius.**

**For any additional information please contact us.**

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