

Whether Mauritius is still the Best Route for Foreign Investment in India?

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ABSTRACT

In the last two decades, Mauritius emerged as the highest foreign investor in India accounting for almost 34% of the total foreign direct investment. The aim of this paper is to provide an in-depth analysis of how Mauritius, a small island country became the top most foreign investor in India during the period 2000 to 2017 and whether it continues to be the preferred route of channelizing foreign investment in India.

The paper identifies that the Agreement on Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes of Income and Capital Gains between India and Mauritius (DTAC) signed in 1983 giving special favour to Mauritius was mainly instrumental in mobilizing foreign investment in India from Mauritius. The wide tax and investment treaty network of Mauritius along with low rate of domestic taxation, presence of Global Business Companies in Mauritius and close relation between the two countries based on diaspora and cultural bonding provided further backing.

In 2016, DTAC was amended, India announced the implementation of General Anti Avoidance Rule (GARR) from 2017 and international tax paradigm also changed due to OECD project on Base Erosion Profit Shifting (BEPS) after 2015. The paper analyses the impact of these changes on FPI and FDI investments flow from Mauritius to India.

It is observed that advantage of Mauritius in FDI and FPI flow has come down in 2018-19 due to amendments of the treaty and other regulatory changes. Its share in foreign investment is likely to come down further with the amendment of the DTAC taking full effect from April 2019. However, Mauritius has clear competitive advantage in channelizing debt investment to India as compared to its competitors like Singapore and the Netherlands.

1. Introduction

For many years, a popular route to invest into India was to go through Mauritius, Singapore or Cyprus. These jurisdictions have accounted for a significant influx of foreign investments into India. Between April 2000 and March 2019, India received \$420 billion of Foreign Direct Investment (FDI) and Mauritius contributed \$134 billion, 32 percent of the total FDI inflows to India in this period. The other four countries in the list of largest sources of FDI to India are Singapore (\$83 bn or 20 percent), Japan (\$30 bn or 7 percent), the UK (\$26 bn, or 6 percent), the Netherland (\$27 billion and 7%) and the USA (\$25 bn or 6 percent). In FPI, the share of Mauritius was 20% until April 2016. Hence, approximately half of the FDI and roughly a quarter of FPI was associated to Mauritius and Singapore. (DIPP, 2019).

This paper aims to find out why Mauritius became the largest supplier of foreign investment to India and whether Mauritius is still the best route of channelizing foreign investment in India. The paper is divided into three sections.

Section I analyses what were the reasons behind Mauritius fetching the highest foreign investment in India.

Section II analyses the key outcomes of amendments to Double Tax Avoidance Treaty between India and Mauritius (DTAC) in the context of changing international tax paradigm and repercussions of amendments on foreign investment in India. The changes planned to be introduced by Mauritius from 2019 to address the issues of transparency and

substance is discussed along with introduction of GAAR by India from 2017.

Section III analyses the impact of tightening of global regulation, amendments of DTAC in 2016 and implication of GARR on FPI and FDI investments from Mauritius to India. Finally, paper examines whether Mauritius is still the best route for channelizing foreign investment in India. From the analysis, it emerges that advantage of the Mauritius route lies especially in channeling debt investment to India while its advantage in FDI has come down in 2018-19.

Section I

Why Mauritius?

The dominance of Mauritius in foreign investment in India poses a significant question: how a country with population of only 1.3 million and an annual GDP of \$12 billion happens to be the major supplier of Foreign Investment to India, much ahead of developed economies like the USA, UK and Japan. An analysis of the underlying facts reveal that Mauritius emerged as the leading exporter of foreign investment due to the following reasons:

1. India-Mauritius Double Tax Avoidance Treaty:

The Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes of Income and Capital Gains (DTAC)¹ signed in 1982 was the

¹ Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes of Income and Capital Gains art. 28, India-Mauritius, Aug. 24, 1982,

main reasons why a large quantum of FPI and FDI entered through Mauritius. Mauritius gained from the liberal terms in the DTAC for over 30 years until it was amended in 2016. The previous India-Mauritius tax treaty granted an absolute immunity to Mauritian residents from tax for capital gains earned from India. Since, DTAC granted taxing rights to Residence state only and no capital gains to India as source state. As per Article 13(4) of the DTAC, on the sale of the shares in the Indian company, there would be no Indian capital gains tax imposed on the seller. Mauritius became a popular option for investors to route their investments into India. The investors from non-treaty countries would initially send funds to Mauritius, acquire the character of a Mauritian resident and thereafter invest from Mauritius to India. It also led to treaty abuse as non-treaty countries enjoyed the benefits there was no Limitation of Benefit (LOB) clause in DTAC and it also led to Double Non-Taxation as companies neither paid taxes in India nor in Mauritius.

The Mauritius route was abused by foreign investors not only for treaty shopping; but also misused for Round Tripping of investments by Indian corporates to avoid taxes in India. In the absence of the DTAA, the tax liability could range from 10% to 40% of the capital gains depending on the nature of the investment and the holding period. The investments coming from Mauritius, Singapore and Cyprus had the benefit of zero tax rate on capital gains, which was not available to investments from other countries (Jaiswal, 2018). The White Paper on black money released in 2012 by the Finance Ministry underlined this: "Mauritius and Singapore with their small economies cannot be the sources of such huge investments and it is apparent that the investments are routed through these jurisdictions for avoidance of taxes and/or for concealing the identities from the revenue authorities of the ultimate investors, many of whom could actually be Indian residents, who have invested in their own companies, through a process known as round tripping" (MOF, 2012).

2. Domestic Tax Regulations of Mauritius

Apart from the tax treaty, Mauritius also had very low domestic tax rate. According to the India-Mauritius DTAC, capital gains tax on the investments in India by Mauritius residents were granted to Mauritius, however, as there were no capital gains taxes in Mauritius, a Mauritian investor ended up paying almost a zero capital gains tax.

3. Presence of Global Business Companies (GBC) in Mauritius

Mauritius also allowed formation of GBC. There were two categories of Global Business Licenses issued by Financial Services Commission of Mauritius till 2018. GBC1 are Treated as tax residents of Mauritius, eligible to avail benefits of Mauritius' network of tax treaties, while GBC2 are not treated as tax residents of Mauritius and are not eligible to

avail benefits of Mauritius' network of tax treaties. GBC2 are not liable to tax in Mauritius. GBC1s are permitted to carry out any legal business activity and treated as tax residents of Mauritius. In Mauritius, Corporate tax rate is 15%. GBC1 were eligible to obtain deemed tax credit for the actual foreign tax incurred on income or; a deemed foreign tax credit equivalent to 80% of the Mauritius tax payable. Hence, the effective tax rate comes between 0-3% (Bloomberg Quint, 2018)

4. Network of DTAA

Mauritius developed itself as off shore financial center with the help of one of the best network of DTAA treaties especially in Africa. Mauritius has a large network of 46 tax treaties and is in process to negotiate more such treaties.

5. Network of BITs

In addition to the Tax treaties, the wide network of Bilateral Investment Protection Treaties (BIT) signed by Mauritius is also an important benefit available to Mauritius based companies. Mauritius and India have a BIT which provides various rights to Mauritius based entities.

6. Historical Relation with India and presence of Indian Diaspora in Mauritius

Another important factor in favour of Mauritius is its historical association with India which forms the basis of an exceptionally close association between the two countries. Indian Diaspora in Mauritius constitutes about 68% of Mauritius population and has been politically powerful. India's soft corner for Mauritius due to Indian Diaspora is reflected in giving special provisions in favour of Mauritius in DTAC.

The strategic location of Mauritius, its business-favorable framework, its ethnicity, its connectivity and openness to the rest of the world made Mauritius an attractive center for raising and pulling of capital and financial services, linking Asia/Europe/USA to Africa. Mauritius offers an ideal platform for investments with a focus on Africa and Asia including India.

Section II

Changing Paradigm of International Tax and amendment to DTAC

The international taxation is developing at a fast pace. The OECD/G20 Base Erosion and Profit shifting (BEPS) project has led to various developments. With the aim to counter double non taxation and erosion of tax base OECD along with G20 nations embarked on the project on (BEPS) in 2013. One of the key features of BEPS is implementation of its recommendation which required amendments to tax treaties between various countries. Countries began tightening the noose around tax havens such as Mauritius by doing away with tax incentives.

Amendment of the DTAC

The DTAC could not remain immune to changes taking place in the international taxation and Indian pressure. After several years of negotiations, the double taxation treaty

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between India and Mauritius was amended on 10 May 2016, when the Central Board of Direct Taxes notified the broad features of the protocol for amendments to the Mauritius DTAC. The protocol amends the Treaty to eliminate the capital gains tax exemption for Mauritian tax residents that own shares in Indian companies, and it introduces the Limitation of Benefits article, which limits the scope of Mauritian entities that may exploit the Treaty.

Since, India had linked continuance of capital gains tax exemption in its treaty with Singapore to the agreement with Mauritius, after Mauritius the treaty with Singapore and Cyprus was amended too.

Key outcome of Amendment of DTAC:

The key aspects of the Protocol are given below:

Table: - 2 Two Stage Implementation of DTAC Amendments:-

Pre 31 March 2017	1 April 2017 and 31 March 2019	Post March 2019
All investments grandfathered. Investments made up to (but excluding) April 1, 2017, will continue to enjoy the existing tax benefits.	Taxed in India at 50% of the ongoing rate. A 50% reduction in Capital Gains Tax is available in relation to the sale of share investments after April 1, 2017 as long as the divestment occurs before April 1, 2019. This respite is subject to certain 'material' standards and is not available if the structure is not supported by business considerations or if the unit is a shell or a mere channel. A unit is not considered to be a shell or a conduit if it incurs operative expenses of around USD 40, 000 in Mauritius within a period of 12 months before a divestment.	India takes right to levy full tax

The implementation of DTAC Amendment is divided into 3 stages, namely; Up to 31 March 2017, April 2017 to 31 March 2019 and after March 2019.

The main highlight of the renegotiated DTAC is that India now has the right to levy tax on the Capital Gains of investors which they gain through the disposal of shares of Indian companies i.e. source based taxation of capital gains. While, the Capital Gains tax treatment for prevailing investments by Mauritius residents will not be disturbed, all capital gains on or after April 1, 2017, would be subject to capital gains tax as per Indian tax rates. The amendment of the treaty brings the system in line with India's General Anti Avoidance Rules (GARR) from 2017. The new system provides uniformity between foreign and domestic investors in respect of capital gains tax and advantages of Mauritius has been taken away in case of Capital gains on shares.

From April 1, 2017, a Mauritius holding structure may not be ideal for India-focused equity investments. There are certain ambiguities in respect of some provisions of the protocol and Indian Government has set up a Working Group to analyze the implications of the Protocol and the concerns raised by various stake holders. There is vagueness on the tax treatment which will be accorded to quasi-debt instruments such as compulsorily convertible debentures, etc.

The amended treaty has also provided certain advantages to Mauritius. It has reduced the Indian withholding tax rate on interest to 7.5% - lower than the 10% rate in India's tax treaties with Netherlands, Luxembourg, and Cyprus and the 15% rate in the treaty with Singapore. Thus, Mauritius is poised to attract and become a hub for debt investments into India.

Changes by Mauritius to meet the BEPS challenges

The Deemed Foreign Tax Credit to the Global Business sector by Mauritius was categorized by OECD/EU as harmful tax practice and they wanted beneficiaries to be systematically taxed like other companies. In order to address these concerns, Budget 2018-19 of Mauritius has introduced changes to enhance its image as a compliant

International Financial Centre. The 2018/2019 Mauritian budget strives to harmonize the fiscal system for domestic and global business companies.

Single Global Business License from January 2019

As per 2018/2019 Budget of Mauritius, a single licensing system will be put on from 1 January 2019. Financial Services Commission (FSC) will no longer issue a Category 1 Global Business License (GBL1) or a Category 2 Global Business License (GBL2), under the Financial Services Act. Existing GBL-2 companies will be grandfathered. The deemed foreign tax credit system available to companies holding the Category 1 Global Business License (GBC 1) will be abolished from 31 December 2018. Companies holding GBC 1 business license will now move from deemed foreign tax credit system to a Partial Exemption System from 1 January 2019. The new license will be known as a Global Business License (GBL).

A new System of Partial Exemption

A new system of Partial Exemption has been introduced applicable to all companies in Mauritius (other than banks). In this system, 80 percent of the indicated income would be exempt from tax in Mauritius subject to fulfillment of the FSC's pre-defined substantial criteria.

Section III

Whether Mauritius is still the best route for investment in India?

Mauritius does not have the clear cut advantage as it used to be before, however FPIs/FDI using Mauritius are unlikely to abandon India. There are both commercial and tax-driven reasons for investing in India from Mauritius. Global investors consider Mauritius to be a well-established jurisdiction for holding company. There are other factors like the significant experience gained in dealing with India, cultural and language collaborations and even the convenient time zone which make Mauritius a major player for foreign investment in India.

However, post the implementation of DTAC, the incentive for investors to route their investments through Mauritius has been weakened to some extent. Two years after India renegotiated its double taxation avoidance agreements (DTAAs) with Mauritius in 2016, its importance as investment channels to India is fading and certainly has some impact on the quantum of FDI and FPI coming into India. Foreign portfolio investors (FPIs) and private equity (PE) funds that once used Mauritius to pool money might as well invest directly in India, given that long term capital gains tax (LTCG) is now applicable at 10%.

Impact of Tightening of Global Tax regulations (BEPS) and GAAR

Investors are cognizant of the onset of General Anti-Avoidance rules (GAAR) in India from April 1, 2017. Introduction of the (GAAR) and (BEPS) has made it difficult for the funds to incorporate themselves in jurisdictions where they have very little business presence. These rules override all tax treaties and aim at structures that are primarily tax driven and which lack commercial substance. These laws require a fund to have an appropriate office, employees and business infrastructure in the jurisdiction where they choose to register. If these essentials are absent, such an arrangement could be considered a tax avoidance arrangement and face sharp penalties. Foreign investors have to identify, demonstrate and document the business and strategic drivers behind each structure.

Some investors have already moved to Europe, as Long Term Capital Gain (LTCG) does not apply on funds invested through Netherlands and France. Many FPIs prefer to set up a base in Singapore. Singapore has an edge over Mauritius because of better infrastructure. Unlike earlier, it is not just about tax arbitrage. Offshore funds are now choosing centers based on ease of doing business and operational efficiency as the tax outgo on equity gains is roughly the same across all countries Singapore being a financial hub, has excellent banking facilities and easier access to funds/financial products and great regulators. There is no longer a standard formula for investors to use Mauritius as an entry point to India to minimize tax costs. Fund managers now have to do a careful analysis of the investment strategy, nature of investment and commercial reason to use a treaty jurisdiction before deciding which route to take to India.

FDI Flows from Mauritius

About 50% of FDI flows since April 2000 has been routed through Mauritius and Singapore as they enjoyed exceptional status under the double tax avoidance agreement (DTAA) signed with India. Mauritius remained at the top source of foreign direct investment into India in 2017-18 (34%) followed by Singapore. FDI from Mauritius was USD 15.941 billion as against USD 15.728 billion in 2016-17, inflows from Singapore rose to USD 8.711 billion from USD 12.180 billion. Netherlands reached number three in the list of largest FDI contributors to India, just behind Mauritius and Singapore as shown in the table below:

**Table 3: Share of Top Investing Countries FDI Equity Inflows (Financial Years):
Country-Wise**

	(US\$ Billion)		
Source / Industry	2016-17	2017-18	2018-19
Total FDI	43.478	44.857	44.366
Country-Wise Inflows			
Mauritius	15.728	15.941	8.084
Singapore	8.711	12.180	16.228
Japan	4.709	1.633	2.965
Netherlands	3.367	2.800	3.870
United Kingdom	1.483	0.847	1.351
USA	2.379	2.095	3.139
Germany	1.069	1.124	0.886
Cyprus	0.604	0.417	0.296
UAE	0.675	1.050	0.898
France	0.614	0.511	0.406

Source: Source: Dep't of Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Fact sheet on FDI

**Table:- 4 Statement on Country-Wise FDI Equity Inflows from April 2000 to March 2019
(US\$ Billion)**

Source / Industry	cumulative Fdi flows into India (2000-2019): Amount of Foreign Direct Investment Inflows	%age to total Inflows
Grand Total	420.14	
Mauritius	134.47	32.01
Singapore	82.99	19.76
Japan	30.27	7.21

Netherlands	27.35	6.51
United Kingdom	26.79	6.38
USA	25.56	6.08
Germany	11.71	2.79
Cyprus	9.87	2.35
UAE	6.65	1.58
France	6.64	1.58

Source: Dep't of Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Fact sheet on FDI

FDI flows from Mauritius in 2018-19

However, during 2018-19, FDI equity flows routed through Mauritius declined sharply reflecting the impact of the amended DTAC. The DTAA with Netherlands has benefits comparable to the earlier Mauritius treaty in relation to capital gains tax, after satisfying certain conditions. The presence and continuation of these DTAs opens up the possibility that these countries may turn out to be the new Mauritius route. During the period 2017-18, Netherlands became the third highest in the list of largest FDI contributors to India, just behind Mauritius and Singapore. International investors are looking at these countries to route future investments to India.

Mauritius witnessed a 69 per cent drop in foreign direct investment (FDI) in 2018-19. Singapore which overtook Mauritius emerged as the favorite country for channelizing FDI with a 77.77 per cent jump in investments. FDI through Mauritius declined to \$ 8 billion 2018-19 from \$15 billion in the same period of last year, pushing it to the second spot in the FDI flows. However, FDI through Singapore rose to \$16 billion from \$ 12 in the same period of last year. Singapore accounted for 40 per cent of the total FDI of \$44 billion in the fiscal 2018-19. While Mauritius share dropped by 2 percentage points to 32% in 2018-19 from 34 % in 2017-18, the share of Singapore increased by 2 percentage points to 20% during the same year.

FPI Flows and Mauritius?

Even in FPI, the popularity of Mauritius among FPIs has taken a dent after India amended its tax treaties. Since January 2018, of the 650 FPIs that have registered with SEBI, 241, are from Luxembourg, the Cayman Islands and Ireland, only 53, of the funds have chosen to come through Mauritius or Singapore. Luxembourg has emerged as the third largest source of FPI flows to India after the US and Mauritius. Although Mauritius still accounts for the highest level (about 16%) of total Foreign Portfolio inflows in India after the US but its share is coming down. Tighter tax regulations have forced foreign portfolio investors (FPIs) operating out of Mauritius to reevaluate their strategy. The share of Mauritius in the total assets under custody of FPIs has dropped. On the other hand, investment from America and Britain are increasing. With, implementation of many of the BEPS guidelines by India, phasing out the tax advantage enjoyed by investors from Mauritius and implementation of General Anti Avoidance Rules, black money and round-tripping using the FPI route is coming down. This is evident from the falling value of outstanding P-Notes. Earlier at least one third of foreign portfolio flows into the country was round tripping of Indian funds belonging to Indians. FPI inflows are expected to shrink

as these flows have reduced. A proposal by SEBI for developing new yardstick and tightening of disclosure procedures for FPIs coming from non-FATF countries including Mauritius also affected flows from Mauritius. However, pursuant to a high-level discussion between the Mauritius Financial Service Commission and SEBI, this move was dropped.

The effect of Modification of Capital gains Clause

The modification on capital gains taxation in the amendment is limited to gains arising on sale of shares. There is continuity of benefit to other instruments. The income from the sale of shares is characterized as capital gains. From April 2018, India introduced a 10% tax on long term capital gain tax on transfer of shares. As for shares sold post 31st March 2019, the full domestic rate will apply.

Edge of Mauritius in Debt instruments:

After the re-negotiation of the India-Mauritius DTAA in 2016, Mauritius surfaces as a competitive center for making debt investments through the FPI route in listed securities either on the primary or secondary markets in India. With respect to debt investments, Mauritius enjoys the most competitive advantage. Compared to the preceding position where income was exempted, which is now taxable up to 7.5% in India, there is an absolute increase in the cost involved; but in a relative way, it is still lesser than taxes on such income when investing into India through other countries.

Essentially, a foreign investor investing in debt instruments could make the following incomes from investments in India: either (a) gains arising from sale / transfer of securities held in Indian companies or (b) interest income. Under the India-Mauritius DTAC, if the gain from the alienation of debt instruments (compulsorily, optionally and non-convertible debentures), other than redemption premium, is treated as capital gains, such instruments shall only be taxable in Mauritius, which is beneficial as Mauritius does not levy a tax on capital gains.

As regarding interest income, the Protocol provides that all Mauritius entities including banks receiving interest income from Indian sources will now be obligatory to pay tax at a rate of not more than 7.5% of the gross amount of interest provided that the Mauritius entities are the beneficial owners of such interest income. In case the Indian tax rate is lower than 7.5%, then it is the domestic rate which will be applicable.

Based on the above analysis, it can be inferred that Mauritius is certainly the preferred route for investing in the debt market in India as compared to such other jurisdictions as Singapore (15%) and Netherlands (10%). Since April 1, 2017, there has been Rs.1.26 lakh crore of inflow into debts as against Rs.17, 464 crore into equity. A bulk of this came from Mauritius. If however, the recipient of the interest has a business connection/PE in India, then the interest income which is attributable to the business connection/PE will be taxed in India at the rates varying between 41.2% to 43.26% (subject to minimum alternate tax) on a net income basis.

How the Latest Mauritius Budget Changes affect FPIs/ FDI into India

Since foreign earned capital gains would continue to be exempt from tax in Mauritius, there should not be any impact

on Mauritius companies investing into India under the FPI (or FDI route) on this account. The major change would be in the computation of tax on the dividends or interest income earned by Mauritius companies from Indian investments.

Since the unilateral tax credit under Mauritius law is being done away with there would be a potential 3 percent tax liability on Mauritius FPIs earning dividend income from Indian

shares. In case of interest income from FPIs, Indian debt investments attracting withholding tax of 5/7.5 percent in India, the partial exemption regime along with a tax treaty benefit could, in fact, result in a lower tax payment as compared to the earlier tax credit system. As shown in the table below:

Table- 5: Comparing the Old and New Tax system in Mauritius

Particulars	Deemed Tax Credit Regime (In %)	Partial Exemption Regime (In %)
Interest income	100	100
Withholding tax in India	5/7.5	5/7.5
Headline tax in Mauritius	15	15
Tax base	100	20 (80% exempt)
Gross tax payable in Mauritius	15	3
Tax credit	12 (deemed 80%)	1/1.5 (under tax treaty, proportionate to income offered to tax in Mauritius = 5/7.5*20%)
Tax Liability	3	2/1.5

Source: Bloomberg Quint

The lower withholding tax on interest rate of around 7.5% makes Mauritius an attractive platform for investing in Indian debt securities. The domestic tax rate in Mauritius is 15%. However, global business companies benefit from a deemed foreign credit of 80%, making the actual tax rate a maximum of 3% till 2018 and even after Partial tax system from January 2019, the advantage of Mauritius continues. This seems to favour shareholders returns, as opposed to other countries which might still exempt entities of capital gains (as stipulated in their DTAA with India) but are taxed at a much higher rate

domestically. For instance, the headline rate of tax in Mauritius is 3% whereas in Netherlands it is 25%, and in Singapore it is about 17%. The withholding tax rates are also much lesser. It is only 7.5% in Mauritius as compared to 15% in other treaties. Therefore this makes Mauritius more attractive for debt investment. For the better part of the past two decades, equity investments have been routed through Mauritius. By reducing the withholding tax on interest income, India has displayed its special treatment for Mauritius.

Mauritius Compared to Other Countries

Table 6 :- Mauritius as Compared to other Countries:-

Countries Names	Equity Shares	Derivatives	Debts / Interest Withholding rate
Mauritius	Taxable	Exempt	7.5%
Belgium	Exempt	Exempt	15%
Cyprus	Taxable	Exempt	10%
France	Exempt	Exempt	10%
Ireland	Taxable	Exempt	10%
Korea	Exempt	Exempt	15%
Luxembourg	Taxable	Exempt	10%
Netherlands	Exempt	Exempt	10%
Singapore	Taxable	Exempt	15%
Switzerland	Taxable	Exempt	10%

For structuring debt investments, the jurisdictions which have typically been used by foreign investors to invest in India

include Singapore (10-15% withholding on interest income, Luxembourg (10% withholding on interest income) and the

Netherlands (10% withholding on interest income), however rates for investment from Mauritius is only 7.5%).

Mauritius keeps DTAC outside the purview of MLI

Another factor which gives advantage to Mauritius is that it has kept the tax treaty with India outside the purview of the Multilateral Instrument (MLI) signed under the OECD's Base Erosion and Profit Shifting project. Mauritius has signed the MLI on 5 July 2017 but it has chosen not to notify the DTAC. The MLI covers 23 of the existing tax treaties of Mauritius. For the tax treaties that are not covered by the MLI, Mauritius has to discuss bilaterally with the respective treaty partners in order to implement the BEPS minimum standards.

Because the tax treaty with India is not being notified under the MLI, the benefits under the India-Mauritius treaty will not be qualified by the Principal Purpose Test (PPT). It means that treaty benefits with respect to other jurisdictions will require satisfaction of additional conditions which are very subjective tests. So, it is comparatively risk free to gain the 7.5% interest withholding cap under the India-Mauritius treaty, which can be subject to some litigation in the case of Netherlands or Singapore. Thus, the biggest advantages that Mauritius offer is a greater scope and arbitrage for structuring debt investments.

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