As Mauritius cracks down, funds may turn to other jurisdictions

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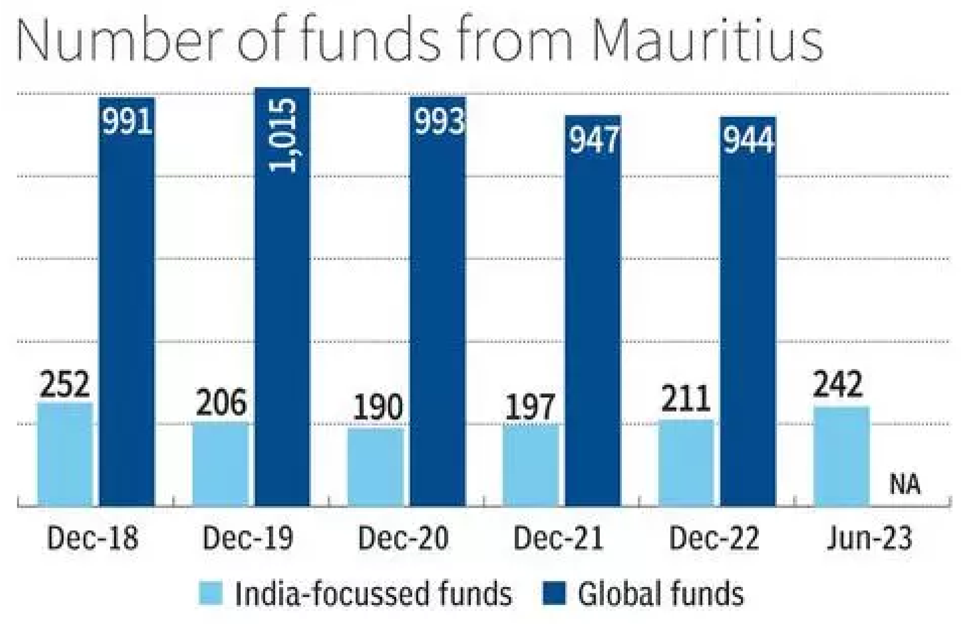
Increased scrutiny, longer timelines may slow setting up of India-focussed funds

BY ASHLEY COUTINHO

Soomilduth Bholah, Minister of Financial Services and Good Governance, Mauritius

Mauritius has stepped up scrutiny of offshore fund structures, resulting in longer timelines and a higher compliance burden for India-focussed funds.

The tighter scrutiny, along with the recent amendment in the India-Mauritius tax treaty, tax notices to Mauritius-based funds by Indian income tax authorities, and the emergence of alternatives such as GIFT City, could potentially slow down the number of funds being set up in the island nation, said experts.



Source: EDB Mauritius/FSC Mauritius

The island nation, which exited the FATF grey list in October 2021, has been trying to shed its image as a quasi-tax haven and showcase its compliance with international tax norms.

"Mauritius has upped its KYC game, resulting in greater on-boarding challenges for investors. The FSC is asking for more information from fund administrators and subjecting funds to more routine audits now," said Richie Sancheti, founder of Richie Sancheti Associates.

The time for setting up a fund has increased to 6-9 months now, from 3-4 months a few years ago.

"More questions are being asked around the experience of the beneficial owner, the sources of funds, commercial substance in Mauritius and qualification of independent directors," said Anand Singh, Chief Executive Officer, Elios Financial Services.

Beneficial owners must have the relevant financial experience, while funds are required to appoint compliance and money laundering reporting officers. The FSC is conducting background checks on fund sponsors and fund managers, and is reaching out to regulators of countries in which they are based to verify their antecedents, said Singh.

"A lot of personal information is required in the form of passport, utility bills, bank or credit card statements or reference letters, which could be confidential and frowned upon by institutional investors," said an official.

According to Singh, management companies in Mauritius responsible for the day-to-day functioning of the fund, have significantly changed their pricing owing to greater compliance requirements, lesser availability of skilled talent, rising manpower costs and other factors.

An e-mail sent to the Financial Services Commission, Mauritius, did not get a response.

Soomilduth Bholah, Minister of Financial Services and Good Governance, Mauritius, told *businessline* recently that the island nation did not have shell companies, was no longer a tax haven, and had put in place many stringent norms to eliminate that image.

Shift to other jurisdictions

India and Mauritius recently amended their double taxation avoidance agreement, introducing a principal purpose test to decide whether an investor is eligible for treaty benefits.

In the past year, several Mauritius-based funds have got queries from income tax authorities in India, asking for proof of economic substance and their eligibility for availing of treaty benefits. While most of the FPIs have got favourable orders, some investors have received show cause notices and tax demands.

"There seems to be a mandate to go after these funds, which has unnerved fund managers," said another official.

Unsurprisingly, larger funds are contemplating alternative jurisdictions.

"Mauritius has been taking a lot of information on beneficial ownership and drilling through fund structures on a look-through basis. This has made it more onerous to set up fund structures in Mauritius. And with the amendment to the India-Mauritius tax treaty, fund managers are exploring other jurisdictions like GIFT City, Singapore and the Cayman Islands," said Parul Jain, Head of Fund Formation at Nishith Desai Associates.

To be sure, Mauritius scores over Singapore in terms of cost. The base cost for setting up a fund in Mauritius could be $25,000-$35,000. Singapore has a minimum expense requirement of 200,000 Singapore dollars. The fund regime at GIFT City, on the other hand, is just taking off with 94 funds registered so far.