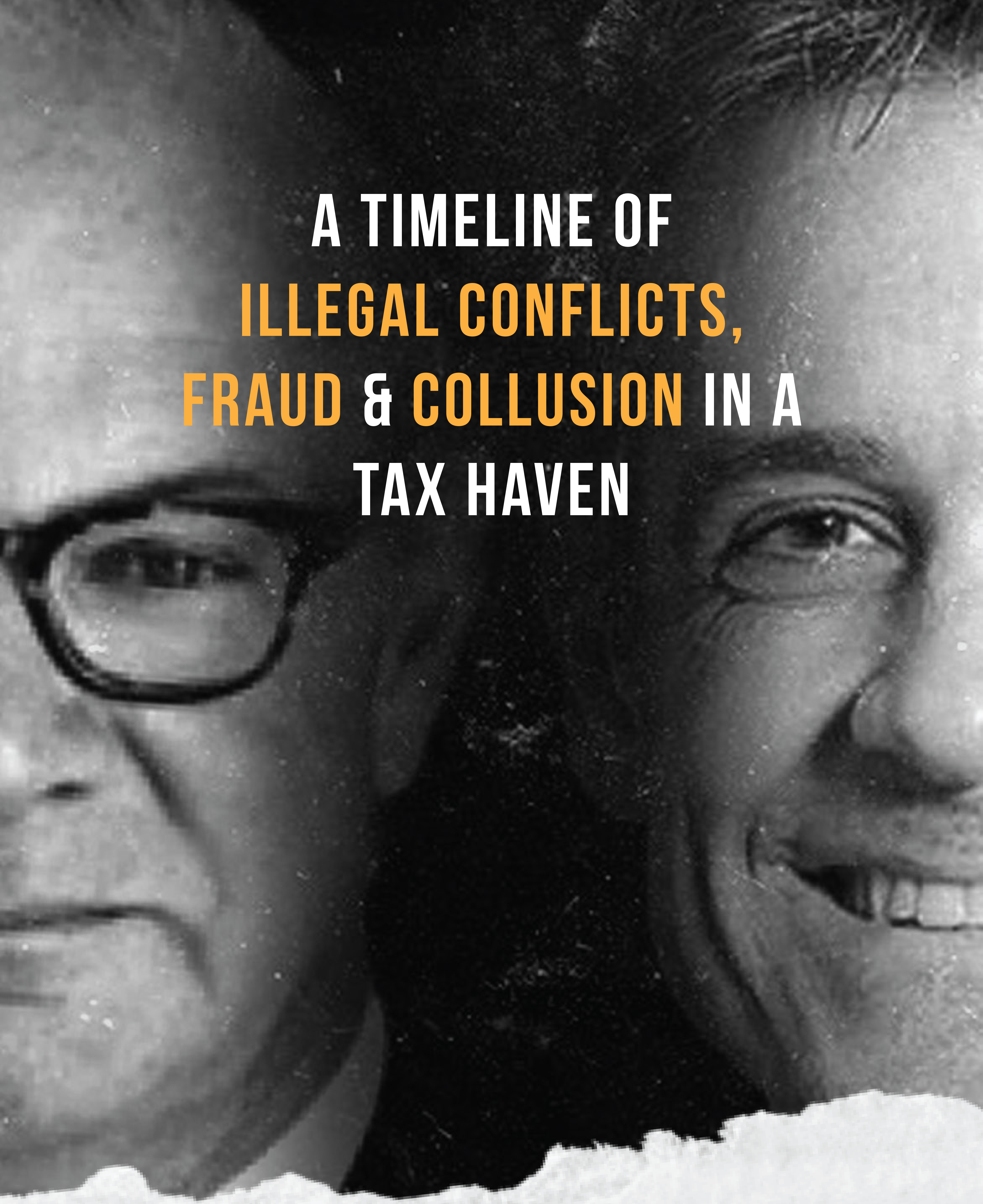
A TIMELINE OF ILLEGAL CONFLICTS, FRAUD & COLLUSION IN A TAX HAVEN



HOW MARK FLORMAN & LOUIS RIVALLAND BREACHED THE LAWS OF MAURITIUS

TRUTH - JUSTICE - ACCOUNTABILITY

ONE VERITAS

A TIMELINE OF ILLEGAL CONFLICTS, FRAUD & COLLUSION IN A TAX HAVEN

HOW MARK FLORMAN & LOUIS RIVALLAND BREACHED THE LAWS OF MAURITIUS

A REPORT BY THE OFFICE OF CORPORATE INTEGRITY AND ANTI-CORRUPTION OF ONE VERITAS

APRIL 2025

WWW.ONEVERITAS.ORG

CONTENTS

EXECUTIVE SUMMARY

This report exposes a series of grave governance failures, illegal conflicts of interest, fraudulent transactions, and insider trading involving senior corporate figures operating within Mauritius's financial sector – namely Mark Florman and Louis Rivalland.

Key Findings:

1. Systemic Conflicts of Interest at the Mauritius Investment Corporation (MIC)

Mark Florman, Chairman of the MIC, failed to disclose personal and financial interests while steering decisions benefiting his UK-based company, Time Partners Ltd.

Despite clear breaches of Section 143 of the Mauritian Companies Act (conflict of interest disclosure obligations), the MIC Board approved Florman's proposals, undermining governance norms and exposing MIC to reputational damage.

2. Insider Trading & Market Manipulation in the New Mauritius Hotels (NMH) Case

Louis Rivalland, CEO of Swan Group and a former NMH Board Director, directly participated in orchestrated transactions to acquire NMH shares at inflated prices, in concert with ENL and Rogers, in order to block a hostile takeover.

The Taukoordass Report (2017), commissioned by the Financial Services Commission (FSC), provides compelling evidence of breaches of Mauritius's Securities Act 2005, particularly Section 111 governing insider trading, tipping, and disclosure of price-sensitive information.

3. Legal Breaches Identified

- *Breach of Section 111(1)(a): Trading while in possession of inside information.*
- *Breach of Section 111(1)(b): Procuring and encouraging others to trade on insider knowledge.*
- *Breach of Section 111(1)(c): Unlawful disclosure of confidential information.*
- *Breach of Section 114 & 116: Market rigging, false or misleading conduct.*
- *Breach of mandatory Takeover Rules under the Securities (Takeover) Rules 2010.*
- *Breach of Companies Act 2001: Section 143(1): Directors must disclose any interest in a transaction.*
- *Breach of Financial Crimes Commission Act 2023: Section 43: It is an offense for a person to abuse their position in a public or private body for personal gain.*
- *Breach of Financial Intelligence and Anti-Money Laundering Act 2002: Section 3: Defines and criminalizes money laundering activities. Section 14: Mandates the reporting of suspicious transactions by relevant parties.*

4. Legal Implications

Both Florman and Rivalland's conduct potentially attract severe civil and criminal liability under Mauritian law, including penalties of imprisonment up to 10 years and financial sanctions amounting to three times the illicit gains.

5. The Broader Impact

This case starkly illustrates regulatory capture, weak enforcement, and the erosion of investor confidence in Mauritius as an international financial centre. It underscores the urgent need for:

- *Strengthened regulatory oversight.*
- *Accountability for directors and executives.*
- *Enforcement of anti-corruption and corporate governance standards.*

THE BOARD OF THE MIC

KEY PLAYERS

Mauritius Investment Corporation
Securing our Future

MR. CARL ALAN MARK FLORMAN

MR. JEAN MICHEL LOUIS RIVALLAND

MR. MARDAYAH KONA YERUKUNONDU

MRS. HEMLATA SADHNA SEWRAJ-GOPAL

MR. SWAMINATHAN RAGEN

MR. MOHAMED SWADICQ NUTHAY

MR. NEEMALEN GOPAL

CARL ALAN MARK FLORMAN

MR. CARL ALAN MARK FLORMAN

Mauritius Investment Corporation
Securing our Future

APPOINTED CHAIRMAN BOARD OF THE MIC

2 JUNE 2020

OWNS 75% OR MORE SHARES OF

TIME PARTNERS HOLDINGS LIMITED[1]

UK COMPANY NUMBER 11713523

100%

TIME PARTNERS

UK COMPANY NUMBER 08364643

DIRECTOR OF TIME PARTNERS LTD[2]

10 APRIL 2013

PEMBANI • REMGRO
INFRASTRUCTURE MANAGERS

APPOINTED INDEPENDENT INVESTMENT COMMITTEE MEMBER [3]

01 JULY 2015

1. https://find-and-update.company-information.service.gov.uk/company/11713523/persons-with-significant-control
2. https://find-and-update.company-information.service.gov.uk/company/08364643/officers
3. https://www.pembani-remgro.com/_files/ugd/d6334d_047bb85e2b844225af07240063e9041c.pdf

TIMELINE OF CONFLICTS

23 AUGUST 2023

- Mark Florman does not disclose his conflict of interest when proposing that **his** company Time Partner Ltd be responsible for the implementation of the MIC Strategy Stage 2.0.
- His conflict is pointed out by another director and other directors concur that approving such an assignment would cause reputational damage to the MIC.
- All directors proceed to approve going forward in breach of **Section 143 of the Companies Act 2001 of Mauritius**.

EXTRACT FROM THE MINUTES OF THE 59TH MIC BOARD MEETING[4]
– 23 AUGUST 2023

VII. Implementation of MIC Strategy Stage 2.0 (Information Note: 59/1)

1. Information Note No 59/1 on the consideration 'the implementation of MIC Strategy Stage 2.0' was submitted to the Board.
2. The Chairman gave a brief on his meeting he had with the Ministry of Finance and the Chairman of the Board of Directors of the Bank of Mauritius (BOM).
3. He also mentioned that a presentation of the MIC Strategy Stage 2.0 was made to the Board of BOM.
4. He stressed that he met with the British International Investment (BII) and he believes that the MIC has the opportunity to invest in mature funds. He also mentioned that the team at BII could visit MIC for further training purposes.
5. He also highlighted that he believes that the MIC could support those funds which invest in Climate, Sustainability, and Infrastructure related activities. He pointed out that the BII wants to work with Mauritius due to the political stability environment prevailing.
6. The Chairman gave a brief of the team at Time Partners Limited to the Board of Directors.

Page 6 of 7

59th MIC Board Meeting – 23 August 2023

7. One Board Director raised the point about the potential conflict of interest of the Chairman of the Board of the MIC, who is also the Chairman and CEO of Time Partners Limited. He stressed that same is not good governance practice.
8. Another Board Director also highlighted that this could be a potential reputational risk for the MIC, and this may cause damage to the image of the MIC.
9. After further discussion, the Board Directors approved that the Chairman of the MIC would discuss on the way forward for the proposal from Time Partners Limited for the implementation of MIC Strategy Stage 2.0, with the Chairman of the Bank of Mauritius.

13 JUNE 2024

- Mark Florman is an independent Investment Committee Member of Pembani Remgro Infrastructure Fund[6].
- He does not declare his interest to the board of the MIC.
- The Board of the MIC approves an investment in Pembani Remgro Infrastructure Fund II.

Announcement

PEMBANI • REMGRO
INFRASTRUCTURE FUND

MARK FLORMAN APPOINTED AS INDEPENDENT INVESTMENT COMMITTEE MEMBER

JOHANNESBURG, SOUTH AFRICA, 01 July 2015 – Mark Florman has been appointed as an independent Investment Committee member of the Pembani Remgro Infrastructure Fund. He has over 34 years of private equity and investment experience.

Mark was the founder of the merchant banking group Maizels Westerberg which specialises in advising on mergers, acquisitions and corporate restructurings. He sold the firm to create Aros Maizels in 2000.

He has held a range of roles during his career including Senior Principal and Managing Director of European private equity firm Doughty Hanson & Co; Chairman of LM Glasfiber, the world's leading supplier of components and services to the wind turbine industry; co-founder of the pan-African private equity firm 8 Miles and CEO of the British Venture Capital Association.

He is Chairman of Time Partners, a consultancy firm to the private equity and venture capital industry advising on capital raising and Private Equity markets; B Corp (UK), a non-profit organisation that provides certification to companies that meet rigorous social and environmental performance, accountability and transparency requirements; and The Centre for Social Justice, an independent think tank seeking to find solutions to poverty in Britain.

Mark was a member of the G8 Social Impact Investment Task Force, was appointed to the Triennial Review of the Big Lottery Fund by the UK Cabinet Office and in March 2015 was appointed to the Board of the BBC Trust and Trustee for England.

He speaks widely on how business impacts society and has developed an Expected Reciprocal Rank ("ERR") metric of social impact measurement.

He is a graduate of the London School of Economics and is married with 3 daughters.

EXTRACT FROM THE MINUTES OF THE 66TH MIC BOARD MEETING[5]
– 13 JUNE 2024

66th MIC Board Meeting – 13 June 2024

VI. Investment Proposal for Consideration of the Boar

Pembani Remgro Infrastructure Fund II (Board Paper No:66/3)

1. Board Paper No. 66/3 on the consideration of '*an investment in Pembani Remgro Infrastructure Fund II (the "Fund" or "PRIF II") representing 3% of the final size of the Fund and subject to a maximum investment amount of USD 10 million*' was submitted for consideration.
2. The CEO explained that Pembani Remgro Infrastructure Fund II ("PRIF II" or the "Fund") is an investment fund created by Pembani Remgro Infrastructure Managers (Pty) Ltd ("PRIM" or the "Manager" or the "Firm") with a target fund size of USD 300 million, subject to a minimum size of USD 150 million and maximum size of USD 400 million.
3. He further stated that under PRIF II, the Fund was designed to have a term of 10 years with permissible extensions of up to 2 years, and the investment period would span over 5 years and that The Fund had already raised USD 214 million as at first close in November 2023.
4. He highlighted that PRIF II would focus on the top-performing economies within the Sub-Saharan African region, including countries like South Africa, Kenya, Nigeria, and Ghana, among others and that PRIF II would target investments across a diverse range of sectors and geographies, reflecting its broad investment horizon, including greenfield infrastructure projects.
5. He explained that the predecessor of PRIF II, Pembani Remgro Infrastructure Fund I ("PRIF I"), was on track to achieve a net IRR of 13.8% and that a preferred return of 8% had been established for PRIF II, management fees had been set at 1.50% while carried interest was at 20% with full catch-up and also that the Manager expects a net IRR between 14% to 16% for PRIF II.
6. One Board Director queried on how the deployment of capital would be structured to which the CEO replied that same would spread over 5 years.
7. Another Board Director observed that the Fund should consider having a substance requirement in Mauritius.

Page 5 of 11

66th MIC Board Meeting – 13 June 2024

8. After further discussions, the Board Directors approved the investment in Pembani Remgro Infrastructure Fund II representing 3% of the final size of the Fund and subject to a maximum investment amount of USD 10 million, on the terms set out by Pembani Remgro Infrastructure Managers (Pty) Ltd.

4. Board Minutes 59th MIC Board Meeting – 23 August 2023, Page 6, VII(6,7,8,9)
5. Board Minutes 66th MIC Board Meeting – 13 August 2024, Page 6, VI(8)
6. https://www.pembani-remgro.com/_files/ugd/d6334d_047bb85e2b844225af07240063e9041c.pdf

LOUIS RIVALLAND

MR. JEAN MICHEL LOUIS RIVALLAND

SWAN LIFE LTD

4TH BIGGEST SHAREHOLDER OF SUN LIMITED[8]

6,275,386.00 SHARES

APPOINTED FIRST BOARD OF THE MIC

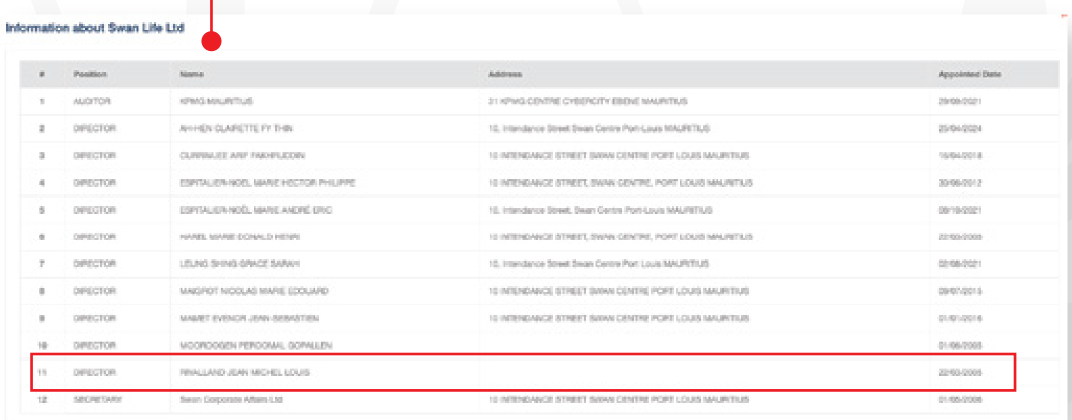
2 JUNE 2020

LAST TO RESIGN THE BOARD

JANUARY 2025

APPOINTED DIRECTOR SWAN LIFE LTD[7]

22 MARCH 2005



Information about Swan Life Ltd

#	Position	Name	Address	Appointed Date
1	AUDITOR	KPMG MAURITIUS	31 KPMG CENTRE CYBERCITY EBENE MAURITIUS	29/09/2021
2	DIRECTOR	AH-HEN CLARETTE FY THIN	10, Intendance Street Swan Centre Port-Louis MAURITIUS	25/04/2024
3	DIRECTOR	CURRIMJEE ARIF FAKHRUDDIN	10 INTENDANCE STREET SWAN CENTRE PORT LOUIS MAURITIUS	16/04/2018
4	DIRECTOR	ESPITALIER-NOEL MARIE HECTOR PHILIPPE	10 INTENDANCE STREET, SWAN CENTRE, PORT LOUIS MAURITIUS	30/06/2012
5	DIRECTOR	ESPITALIER-NOËL MARIE ANDRÉ ERIC	10, Intendance Street, Swan Centre Port-Louis MAURITIUS	05/10/2021
6	DIRECTOR	HAREL MARIE DONALD HENRI	10 INTENDANCE STREET, SWAN CENTRE, PORT LOUIS MAURITIUS	22/03/2005
7	DIRECTOR	LEUNG SHING GRACE SARAH	10, Intendance Street Swan Centre Port Louis MAURITIUS	02/08/2021
8	DIRECTOR	MAIGROT NICOLAS MARIE EDOUARD	10 INTENDANCE STREET SWAN CENTRE PORT LOUIS MAURITIUS	09/07/2015
9	DIRECTOR	MAMET EVENOR JEAN-SEBASTIEN	10 INTENDANCE STREET SWAN CENTRE PORT LOUIS MAURITIUS	01/01/2018
10	DIRECTOR	MOOROOGEN PERIONAL GOPALLEN		01/06/2005
11	DIRECTOR	RIVALLAND JEAN MICHEL LOUIS		22/03/2005
12	SECRETARY	Swan Corporate Affairs Ltd	10 INTENDANCE STREET SWAN CENTRE PORT LOUIS MAURITIUS	01/05/2006

7. MCB Capital Markets - List of Security Holders - Sun Limited
8. Registrar of Companies - Swan Life Ltd

1.THE NMH CASE

Insider Trading Liability of Louis Rivalland in the NMH Preliminary Report

Introduction

In 2016, a series of contested share transactions in New Mauritius Hotels (NMH) raised allegations of market abuse and corporate misconduct. A minority shareholder (Sunnystars Holding) and activists challenged the acquisition of NMH shares by a consortium of major investors, including ENL, Rogers, and the Swan Group, on grounds ranging from breach of takeover rules to insider trading.

The Financial Services Commission (FSC) appointed a special investigator, Kriti Taukoordass (of Mazars), to probe these February 2016 transactions. Taukoordass's Investigator's Preliminary Report[9] (also known as the Taukoordass Report) chronicles the events and flags potential violations of law. This report became the basis for examining whether Louis Rivalland, CEO of Swan and a then-director of NMH, may be liable for insider trading.

This analysis summarizes the evidence from the Taukoordass Preliminary Report implicating Rivalland, outlines the legal framework for insider trading in Mauritius, and evaluates how Rivalland's actions compare to the statutory criteria. It also discusses relevant Mauritian law and any notable precedents, before concluding on Rivalland's potential legal liability.

Findings from the NMH Preliminary Report

The Taukoordass Report unearthed a detailed timeline of how key players coordinated to consolidate control of NMH. By September 2015, four allied entities (ENL, Rogers, Swan Life, and Swan General) collectively held about 30.66% of NMH's share capital. In February 2016, they allegedly acted "in concert" to acquire an additional 9.40% of NMH shares – transactions which were later scrutinized by regulators. According to the investigator, there was evidence of six potential infractions during these dealings, notably including insider dealing under section 111 of the Securities Act. Key findings relevant to insider trading and Louis Rivalland's involvement include:

- ***Swan Investment Committee Meeting (15 Feb 2016):***

On the eve of the share acquisitions, Swan Life's Investment Committee convened to consider buying a 3.69% stake in NMH that was reportedly offered by Taylor Smith Group. Louis Rivalland, CEO of Swan, was present and participated in these deliberations. During the meeting, Swan's investment manager stated that Taylor Smith had made an offer; however, Taukoordass found evidence that another party (PAD) had actually already agreed to sell those shares to ENL-Rogers. In other words, behind the scenes a deal was in place with ENL/Rogers, and Swan only became involved after Rogers' CEO (Philippe Espitalier-Noël) arranged to purchase all the available NMH shares at a predetermined "agreed price"

9. Special Investigation Report IRO New Mauritius Hotels Ltd 'NMHL' Transaction February 2016

1.THE NMH CASE

- ***Purchase of NMH Shares at an "Unsound" Price:***

Following that meeting, Swan Life proceeded to buy NMH shares as part of the consortium.

The price SWAN paid "does not appear to be economically sound," according to the Taukoordass Report.

All these NMH share transactions were channeled through Swan Securities (Swan's brokerage arm). The report suggests the decision to pay an above-market price was not based on ordinary investment logic, but rather on strategic motives, namely, supporting ENL and Rogers. Taukoordass wrote that it was "important for ENL and Rogers to prevent Sunnystars from acquiring these shares in view of a takeover", and that "Swan Life participated in mopping up the available shares and advancing the cause of ENL and Rogers". In effect, Swan (with Rivalland at the helm) helped block a potential hostile bid by buying up shares that a rival bidder wanted, even at an inflated price.

- ***Evidence of Insider Information Sharing:***

The investigator's findings indicate that insider information was leveraged during these events. In particular, an NMH director had shared confidential, price-sensitive information with an outside party to influence share trading. The report recounts that Hector Espitalier-Noël (a director of NMH) met with representatives of the National Pensions Fund (NPF) and "invited the NPF to [buy] NMH shares on the basis of information provided by Gilbert Espitalier-Noël" (the CEO of NMH). Taukoordass concluded "this information was in my view clearly inside information". Notably, Gilbert Espitalier-Noël had given the NPF a private presentation on 19 January 2016 containing "non-public and price sensitive" data, including NMH's quarterly financial results which were unpublished at the time. By disclosing these undisclosed results, the NMH CEO "would have breached section 111(1)(c) of the Securities Act", according to the investigator. This is a textbook example of insider trading: an insider divulged material non-public information to induce a trade.

- ***Identified Legal Breaches:***

The Preliminary Report itemized several laws potentially breached by the various actors. **Most pertinent here, it found evidence of insider dealing, specifically, breaches of section 111(1)(b) and 111(1)(c) of the Securities Act. Section 111(1)(b) deals with counselling or procuring another person to deal in securities on inside information, and 111(1)(c) addresses improper disclosure of inside information.** The report also noted other violations (breach of mandatory takeover rules, market rigging under section 114, and false or misleading conduct under section 116 by NMH board members), underscoring that the entire scheme involved serious market abuses. While the published summary of findings does not name Louis Rivalland under each infraction, it implies that multiple insiders and companies acted in concert, and insider trading was among the wrongful acts identified. Given Rivalland's role in Swan's decision-making and his presence at critical meetings, the question arises whether his conduct meets the definition of insider trading under Mauritian law.

Legal Framework: Insider Trading in Mauritius

Mauritius prohibits insider trading through its Securities Act 2005, under a framework similar to many common law jurisdictions. The law defines "inside information" and delineates prohibited conduct by those who possess such information. Key aspects of the legal framework include:

- ***Inside Information:***

Inside information is defined as information about a reporting issuer (publicly traded company) that (a) is not generally available to the public, and (b) would likely have a material effect on the company's securities' price or value if it were made public. In other words, it is confidential, price-sensitive information about the company or its securities.

The Taukoordass Report itself uses similar language, referring to unpublished quarterly results and other undisclosed developments as "non-public and price sensitive" information.

1.THE NMH CASE

- ***Prohibition of Insider Dealing:***

Section 111 of the Securities Act 2005 makes it unlawful for any person who has inside information about a reporting issuer's securities to misuse that information. In particular, Section 111(1) provides that no person with inside information shall do any of the following, knowing (or where they ought reasonably to know) that the information is inside information:

1. **Trade on Inside Information:**

Buy, sell, or otherwise deal in the securities of the issuer (or derivatives thereof) in reliance on that information. This covers an insider trading on their own account or their company's account while privy to material non-public facts.

2. **Tip or Encourage Another to Trade:**

Counsel, procure, or cause another person to deal in those securities while aware of the inside information. This targets so-called "tipping" – where an insider encourages or convinces someone else (a friend, family member, another company, etc.) to trade based on confidential information.

3. **Unlawful Disclosure:**

Disclose the information to any other person, other than in the proper performance of one's employment, office, or profession. This prohibits insiders from leaking confidential information to outsiders (for example, telling a third party about an upcoming earnings result or takeover offer) except as required in their job duties.

These statutory provisions align with the breaches identified in the NMH investigation. Breaching 111(1)(b) corresponds to tipping or procuring others to trade, and breaching 111(1)(c) corresponds to improper disclosure, both are forms of insider dealing. (Although not explicitly cited in the report summary, section 111(1)(a), trading while informed – is the third form of insider dealing and is equally prohibited.)

- ***Insider Definition:***

The law's applicability is broad; it is not limited to directors of the company. "Insiders" include not only company officers and major shareholders, but any person who has inside information about the company. This means that even third parties ("tippees") who receive material non-public info can be liable if they know the information's nature. In practice, company directors, executives, large shareholders, and their advisors are typical insiders.

In this case, Louis Rivalland's positions would qualify him as an insider several times over, he was the CEO of SWAN (which, through SWAN LIFE, held a significant stake >5% in NMH) and reportedly a non-executive director on NMH's board up until 2020.

These roles gave him access to privileged information and imposed fiduciary duties regarding its use.

- ***Knowledge Requirement:***

The statutory language ("where the person knows or ought to have known that the information was inside information") establishes that a person can be liable if they knew or should have known the information was not public and price-sensitive. Willful blindness is not a defense; insiders are expected to recognize confidential price-sensitive data.

- ***Penalties:***

Insider trading in Mauritius is a serious criminal offence. Upon conviction, an individual faces a fine of MUR 500,000 up to MUR 1,000,000 (or up to three times the profit gained or loss avoided, if that amount is higher) and imprisonment for up to 10 years. The law also allows

1.THE NMH CASE

regulators to seek disgorgement of illegal gains (section 112 of the Act). In addition to criminal prosecution (handled by the FCC and the Director of Public Prosecutions), the Financial Services Commission can take administrative or civil action, such as sanctions on licensed entities or directors.

In summary, Mauritian law forbids anyone with non-public, market-moving information from trading on it, tipping others to trade, or revealing it improperly. The Taukoordass Preliminary Report plainly indicates that such prohibited conduct occurred during the NMH share dealings – setting the stage to assess Louis Rivalland's conduct against these legal standards.

Analysis: Rivalland's Actions Versus Insider Trading Criteria

To determine if Louis Rivalland could be liable for insider trading, we must examine whether his actions as described in the report fulfill the elements of the offence: (1) possessing inside information, and (2) using that information by dealing or tipping, with the requisite knowledge.

Possession of Inside Information

Did Louis Rivalland have "inside information" about NMH in February 2016? Based on the report, it appears he was privy to significant non-public information regarding NMH's share transactions and possibly the company's prospects:

- ***Knowledge of a Covert Share Deal:***

Rivalland was present when Swan's committee discussed the 3.69% NMH stake and learned that Taylor Smith's supposed offer was not what it seemed. Taukoordass's findings imply that information was misrepresented to the committee, evidence later showed the selling shareholder (PAD) had already agreed to sell to ENL/Rogers, meaning the "offer" by a third party might have been a cover or a quickly superseded scenario. If Rivalland became aware (even after the fact) that ENL/Rogers had a private agreement in place for those shares at an agreed price, that is material information about a pending transaction not known to the market. The fact that Swan Life followed through with the purchase after Rogers' CEO set the price suggests Rivalland and Swan had insight into a broader plan – namely, that the consortium would absorb any available NMH shares at a premium to thwart a rival. Such knowledge (a coordinated takeover defense and a pre-arranged price for a sizable block of shares) qualifies as inside information, as it was not public and would be highly significant to other NMH investors if disclosed. Any reasonable investor would want to know that insiders of NMH were orchestrating share transfers to cement control of the company.

- ***Awareness of a Potential Takeover Attempt:***

The report explicitly states that ENL and Rogers were motivated to stop Sunnystars from acquiring the shares "in view of a takeover," and that Swan Life's participation was to advance that cause. This indicates that Rivalland was aware of the threat of a takeover bid and the consortium's strategy to block it. A possible takeover (even just an attempt or intent) is quintessential inside information, it is the type of event that moves markets, and such plans or negotiations are usually kept confidential. Thus, Rivalland's awareness of a potential takeover bid and the defensive actions being taken is inside information about NMH's securities.

- ***Access to NMH's Unpublished Financial Information:***

The report does not directly say that Rivalland saw NMH's unpublished quarterly results (the ones Gilbert E.-Noël gave to NPF) – that breach was attributed to NMH's CEO. However, as a board member of NMH, Rivalland could have had access to NMH's financial results or other confidential corporate information around that time. If the board discussed NMH's performance or upcoming earnings (for example, to justify certain strategic moves), he would be in possession of inside information. Even absent direct evidence of this in the report, Rivalland's position means he had a pipeline to inside data. The key point is that Rivalland, by virtue of his roles, was an insider to NMH and Swan.

He sat at the nexus of information flows between Swan (a major investor/brokerage) and NMH (the target company).

This makes it very likely that he was in possession of material non-public information during the February 2016 transactions, whether it be knowledge of the impending share deal, the takeover defense strategy, or any undisclosed company info exchanged among the conspirators.

In summary, Rivalland had access to and knowledge of information that was not public and was highly pertinent to NMH's share price (e.g. takeover intentions, arranged share sales, possibly financials). This satisfies the first element of insider trading. The materiality of this information is underscored by the lengths the parties went to, secret meetings, rushed purchases, and paying above-market prices, all of which suggest they knew those shares had strategic value beyond the prevailing market price (a classic sign of possessing information the market lacks).

Use of Inside Information (Dealing or Tipping)

Did Rivalland use that inside information by trading or encouraging trades? Here we look at his conduct:

- ***Trading (Dealing) on Inside Information:***

Louis Rivalland did not personally buy or sell NMH shares for himself in the public market (at least, the report does not indicate any personal share trade by him). However, as the CEO of Swan and a member of Swan Life's investment committee, he was directly involved in Swan Life's decision to purchase NMH shares on February 16, 2016. In law, a company can only act through its officers. If Rivalland, armed with inside knowledge (e.g. knowing Rogers/ENL would scoop up shares and a takeover had to be averted), influenced or approved Swan Life's share acquisition, he effectively caused a trade to occur while in possession of inside information. This scenario falls under insider trading prohibitions. Section 111(1)(a) targets a person who "buys, sells or otherwise deals" on inside info ,that can include an officer causing his company to deal. Even if one argues the corporation (Swan Life) is the one that traded, regulators can look through to the decision-makers. Rivalland's knowledge and intent can be imputed to Swan Life (especially since he was a director of NMH as well, making Swan Life a connected insider). Thus, Rivalland's participation in Swan's NMH share purchase may be seen as insider dealing in breach of Section 111(1)(a), provided it's shown he relied on non-public information in making that decision.

The circumstances strongly suggest the decision was information-driven: the price was "not economically sound" absent the insider context, implying the motivation was the inside knowledge of a strategic takeover battle rather than ordinary investment criteria.

- ***Tipping / Procuring Others to Trade:***

Aside from Swan's own purchase, did Rivalland encourage any other party to trade based on inside information? The report's clearest instance of procuring trades was Hector E.-Noël urging the NPF to buy shares using inside info from NMH's CEO. There is no direct indication that Rivalland personally dealt with the NPF or other investors in that manner. However, consider that Swan Securities (the brokerage) executed all the share transactions in question. Swan Securities, being part of Swan Group, would have been under Rivalland's purview as CEO of Swan. If Rivalland coordinated with others to have Swan Securities and Swan Life facilitate ENL/Rogers' plan, he was effectively helping procure trades by various parties

1.THE NMH CASE

(Swan buying some shares, Rogers/ENL buying others, possibly NPF buying or refraining from buying in coordination). Even if Rivalland did not speak to NPF, he did collaborate with ENL and Rogers. That collaboration might be characterized as each party encouraging the others to play their part. In particular, Swan's involvement gave Rogers and ENL the financial support and cover to complete the takeover defense. One could argue that Rivalland, by agreeing to have Swan Life participate, induced or caused Rogers/ENL to proceed with the plan, since Swan's role was to "mop up" shares that Rogers and ENL alone might not take. This is a less direct form of procuring, but it shows concerted action among insiders, sharing information and acting on it. Thus, Rivalland's conduct could also be viewed through the lens of Section 111(1)(b), causing another to deal on inside information, since the whole scheme required mutual encouragement among the insiders to trade.

In summary, Rivalland's actions most squarely align with insider trading by way of trading (through Swan Life) on insider knowledge.

He may also have some exposure under the "procuring" provision, insofar as he was part of a group that collectively decided on trades with shared insider knowledge. The key legal question would be: did he "know or ought to have known" that the information he had was inside information? Given his sophistication (CEO of a financial group) and the obvious nature of the information (e.g. an undisclosed takeover maneuver is clearly material), it would be difficult for him to claim ignorance. The preliminary report's language, "clearly inside information", highlights that any reasonable person in those discussions should have recognized the sensitivity. If the case were brought to court, prosecutors would likely argue that Rivalland knew the true state of affairs (e.g. that NMH's results were good, that a takeover was looming, or that certain shares were spoken for in a private deal) and still proceeded to trade on that basis.

Relevant Case Law and Regulatory Precedents in Mauritius

Mauritian jurisprudence on insider trading is relatively sparse, as there have been few high-profile prosecutions to date. The NMH saga itself is one of the most notable instances in which insider trading allegations have been formally investigated in Mauritius. Nonetheless, there are a few points worth noting regarding enforcement and analogous cases:

- ***Regulatory Actions:***

The NMH investigation demonstrates the interplay between the regulator (FSC) and the law enforcement authorities. Initially, the FSC monitored the February 2016 transactions and even issued a communiqué in April 2017 stating that no breaches of takeover rules were detected. However, under public pressure, the FSC appointed the special investigator (Taukoordass) under section 44A of the Financial Services Act to dig deeper. His interim findings of insider dealing prompted involvement from the Independent Commission Against Corruption (ICAC), which in Mauritius handles serious financial crimes including insider trading. In January 2019, Taukoordass was called in by ICAC for questioning as part of a probe into insider trading and conspiracy in the NMH case. This suggests the case had moved into a criminal investigation phase. The ICAC's interest indicates that authorities were treating the report's findings seriously, potentially as a precursor to charges. However, procedural hurdles (like obtaining court orders for evidence) delayed Taukoordass's full testimony to ICAC. As of the latest updates, it appears the matter was still under investigation, with ICAC examining the role of regulatory officials and the FSC's board in how the NMH affair was handled. This underlines that insider trading cases in Mauritius can become protracted, especially when influential corporations and executives lawyer up and challenge the process (as ENL, Rogers, and Swan did).

- ***Comparative Context:***

It is worth noting that Mauritius, aspiring to uphold a reputable financial market, modeled its Securities Act on international best practices. Thus, insider trading is formally criminalized just as it is in larger markets. The

1.THE NMH CASE

absence of prior convictions may reflect historical under-enforcement rather than a loophole in the law. Regulators globally often struggle to prove insider trading due to its clandestine nature. In the NMH scenario, however, the existence of a detailed investigator's report and a paper trail of meetings and communications provides an unusually clear fact pattern.

If this were an English or American court, the described conduct (an executive coordinating share purchases to foil a takeover while privy to undisclosed information) would almost certainly be deemed illegal insider dealing

(and possibly also a breach of fiduciary duty to the company's shareholders).

In sum, Mauritius's legal framework is fully equipped to find someone like Louis Rivalland liable for insider trading. What remains to be seen, through any case law, is the willingness of courts to convict and the interpretation of nuances (such as what constitutes "ought to have known" in practice). The NMH case, given its scale, could become the defining case on insider trading in Mauritius if it proceeds to prosecution and judgment.

Conclusion

Based on the preliminary report's findings, Louis Rivalland faces significant exposure to insider trading liability under Mauritian law. The evidence indicates that he was an insider to material non-public information regarding NMH, including a covert agreement to acquire shares and an effort to block a takeover, and that he acted on this information by orchestrating Swan's share purchases in concert with other insiders. Such conduct falls squarely within the prohibitions of the Securities Act 2005, which make it unlawful to trade on, or induce others to trade on, insider information.

In particular, Rivalland's role in "mopping up" shares at an arranged price with knowledge of a looming takeover bid suggests a violation of the insider dealing provisions. If proven that he knew these facts were not public (and as a seasoned executive he should have known), then facilitating Swan Life's trades would breach section 111(1)(a) (insider trading by dealing) and potentially 111(1)(b) (by aiding the concerted scheme). While the report highlights explicit insider-information sharing by others (e.g. NMH's CEO tipping off the NPF, breaching 111(1)(c), Rivalland's participation in the overall plan still anchors him in the insider trading misconduct.

In conclusion, the actions attributed to Louis Rivalland in the NMH Preliminary Report do meet the criteria for insider trading under Mauritian law. The sharing and use of non-public, price-sensitive information for trading advantage is exactly what sections 111(1)(b) and (c) prohibit. Barring contrary evidence or defenses, Rivalland could be held liable for insider dealing. This case serves as a cautionary tale that even top executives and respected industry figures are not above the law's requirements for fair and transparent trading. The ultimate outcome will depend on legal proceedings, but the preliminary record tilts strongly toward finding that Louis Rivalland engaged in insider trading and could face legal consequences for it.

Sources: New Mauritius Hotels Preliminary Investigation Report (Taukoordass, 2017); Securities Act 2005 (Mauritius), Section 111; Defimedia and Le Mauricien reportage on NMH saga; FSC Communiqué & legal filings in the NMH case.

2.A NEW HOTEL HEIST IN 3 STEPS

STEP 1

EASTCOAST HOTEL INVESTMENT LTD (ECHIL)

APAVOU **70%**

Sun **30%**

Mr. L. Rivalland is a Director of Swan Life Ltd, 4th biggest corporate shareholder of Sun Limited. He **does not** declare his conflict on **5/02/2024**

SUN LIMITED waives premptive rights in favour of MIC for the full **70%** of APPAVOU's shares in ECHIL.

The Board of MIC approves the purchase for the **70%** on 5 February 2024 under the chairmanship of Mr. Mr. M.K.Yerukunondu for **€48 Million**.

STEP 2

EASTCOAST HOTEL INVESTMENT LTD (ECHIL)

MIC Mauritius Investment Corporation **70%**

Sun **30%**

On 21 May 2024, Mr. M.K.Yerukunondu and Mrs. H.S Sewraj-Gopal the **2** directors who are also authorised bank signatories of the MIC sign off the release of **€48 Million** in the escrow account of Apavou Hotels Ltd as follows:

1. The sum of **€24 Million**
2. The sum of **Rs. 1,219,200,000.**

2. A NEW HOTEL HEIST IN 3 STEPS

STEP 3

EASTCOAST HOTEL INVESTMENT LTD (ECHIL)

Mauritius Investment Corporation – Securing our Future: **49%**

Sun – Hotels | Properties | Services: **51%**

Mr. L. Rivalland is a Director of Swan Life Ltd, 4th biggest corporate shareholder of Sun Limited. He **DOES NOT** declare his conflict on **12 September 2024.**

The Board of the MIC recognises the purchase price by the MIC of **70%** of Apavou Group shares in EastCoast Hotel Investment td (ECHIL) for **€48 Million** and further approves the sale of **21%** of its shares to Sun Limited for the exact prorated amount it purchased it for at **€14.4 Million** to Sun Limited. Sun Limited is no premium to become a controller , and **DOES NOT** issue a cautionary announcement in breach of the Securities Act.

EXTRACT FROM THE MINUTES OF THE 63RD MIC BOARD MEETING[3]
– 5 FEBRUARY 2024

6. After further discussions, the Board Directors gave a conditional approval for the acquisition of 70% of the shares of Eastcoast held by Apavou Hotels Ltd for a price of EUR 48 million subject to : the triple net lease agreement with Sun Limited be extended to at least 7 to 10 years; new terms to be negotiated with SRL which would guarantee an average rental yield of over term of the lease of at least 8% calculated based on the lease.

EXTRACT FROM THE MINUTES OF THE 70TH MIC BOARD MEETING[4]
– 12 SEPTEMBER 2024

CONFIDENTIAL

1. The CEO explained that at its meeting of 05 February 2024, the Board approved the acquisition by Mauritius Investment Corporation Ltd ('MIC') of 1,596 Class B Shares of EastCoast Hotel Investment Ltd ('ECHIL'), representing 70% shareholding, from Apavou Hotels Ltd ('Apavou') for a total price of EUR 48 million.

2. He further explained that on 15 May 2024, a Share Sale and Purchase Agreement was concluded between Apavou, MIC and ECHIL and that the current shareholding structure of ECHIL is as follows: a. MIC - 70% b. Sun Limited - 30%.

3. He stated that the MIC and Sun Limited ('Sun') entered into a Term Sheet on 30 April 2024 to regulate the impact of the transaction between MIC and Apavou and for the exercise by Sun of its rights of pre-emption MIC and that Sun would have a call option to purchase 21% of the entire issued share capital in ECHIL and that the price payable by Sun to MIC would be a maximum of EUR 14.4 million, and was calculated by reference to the Apavou's Purchase consideration. He explained that Sun Limited formulated its call option to the MIC to purchase 21% of the entire issued share capital in ECHIL for an amount of EUR 14.4 million, by way of a letter dated 10 July 2024 .

6

70th MIC Board Meeting – 12 September 2024

4. The Board took note of the above, and approved the sale of 21% shareholding of ECHIL to Sun for an amount of EUR 14.4 million.

3.Board Minutes 63rd MIC Board Meeting – 5 February 2024
4. Board Minutes 70th MIC Board Meeting – 12 September 2024

WHAT THE LAW SAYS

Legal Consequences of a Director's Breach of Duty in a Suspicious Transaction (Mauritius)

Introduction

When a company director in Mauritius breaches their fiduciary duties, especially by engaging in a conflict-of-interest transaction for personal benefit, and the transaction appears suspicious under anti-money laundering laws, a range of legal consequences can arise. These consequences span civil liability under the Companies Act 2001, criminal liability under the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) (as amended), and enforcement actions under the new Financial Crimes Commission Act 2023 (FCC Act). This report analyzes the relevant statutory provisions and remedies, including directors' duties and disclosure obligations, remedies for breach (damages, account of profits, rescission, disqualification), anti-money laundering duties (suspicious transaction reporting and money laundering offences), and the role of the Financial Crimes Commission in investigating and prosecuting financial crimes. Legal provisions are cited, and examples are provided to illustrate the current law (as of 2025).

Directors' Fiduciary Duties under the Companies Act 2001

Mauritian company directors are bound by a set of statutory fiduciary duties and duties of care in the Companies Act 2001. Section 143 of the Act codifies the core fiduciary duties of directors. Key duties include:

- **Acting in Good Faith and in Best Interests**

Directors must act honestly, in good faith, and in the best interests of the company (and for proper purposes). This means a director's decisions should prioritize the company's interests over personal interests.

- **Compliance with Law and Constitution**

Directors must exercise their powers in accordance with the Companies Act and the company's constitution. They must seek shareholder approval if required by law or the constitution for certain transactions.

- **Duty of Care and Skill**

Directors must act with the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances (the statutory standard of care is set by section 160). They are expected to make informed decisions and exercise oversight to a competent standard.

- **Avoiding Conflicts of Interest**

Perhaps most crucially, a director must not put personal interests ahead of the company's interests. Section 143(1)(f) explicitly requires a director to account to the company for any monetary gain or advantage obtained by them in connection with the exercise of their powers or their position as director (other than proper remuneration). This codifies the fiduciary rule that directors cannot secretly profit from their position. Likewise, directors are forbidden from using company property or information for personal benefit, or from engaging in competing businesses, without proper approval. A director must also avoid using the company's assets for any illegal or improper purpose that could harm the company.

- **Disclosure of Interest in Transactions**

Under section 148, if a director is "interested" in a transaction or proposed transaction with the company (meaning the director has a personal interest or will benefit), he must immediately disclose the nature of that interest to the Board and ensure it is entered in the company's interests register. In other words, conflicted directors have a statutory duty to disclose their interest in any contract or deal involving the company. This disclosure allows the Board and (indirectly) the shareholders to be aware of the conflict. (There is a narrow exception if the transaction is in the ordinary course of the company's business on usual terms, such as a director buying the company's product at market price. Failure to disclose an interest is a breach of the Act, though the Act states that the validity of the transaction itself is not automatically affected by non-disclosure.

In the scenario given, the director's conduct, breaching fiduciary duty and benefiting personally from a company transaction, violates these core obligations. Acting to enrich oneself at the company's expense breaches the duty to act in good faith for the company's best interest, and failing to disclose the personal benefit breaches the statutory duty to declare interests. Such conduct is treated very seriously under Mauritian company law.

Conflicted Transactions and Self-Dealing under the Companies Act

Mauritian law has specific provisions dealing with transactions in which a director has a personal interest. These aim to prevent self-dealing and ensure transparency and fairness when a company contracts with one of its own directors (or a related party).

- **Meaning of "Interested":**

Section 147 of the Companies Act defines when a director is "interested" in a transaction. In summary, a director is interested if they or their associates stand to benefit or have a material financial interest in the transaction (for example, if the director is on the other side of the deal, or has a stake in the counterparty). This triggers the disclosure requirement of section 148 mentioned above.

- **Disclosure and Board Approval:**

As noted, section 148 requires prompt disclosure of the nature and value/extent of the director's interest to the Board. Best practice (and often company constitutions) would also have the interested director abstain from voting on the transaction. The Act even provides that an "interested" director should not use his influence to the company's detriment, for instance, section 153 forbids a director from using inside company information for personal gain, and any profit made from misuse of information must be accounted to the company.

- **Voidability of Interested Transactions:**

If a director fails to properly disclose his interest, the transaction may be voidable at the instance of the company. Section 149 of the Act provides that a transaction in which a director is interested can be avoided (rescinded) by the company by action taken within 6 months after the transaction is disclosed to all shareholders (such disclosure could be via the annual report or other notice). In other words, once the shareholders discover that a director had an undisclosed interest, the company has a six-month window to cancel the deal. However, there is an important limitation, the transaction cannot be avoided if the company received fair value under it. This means that if the deal was objectively fair to the company (no detriment despite the conflict), the company is generally bound by it. The law places the burden on the interested director (or the counterparty who knew of the director's interest) to prove the transaction was for fair value if they seek to uphold it. Conversely, if neither the company nor third parties knew of the conflict, the company must show it did not get fair value to void the deal. These provisions codify equitable principles: they deter directors from self-dealing, but also protect innocent third parties and the company's commercial interests in fair deals. Section 150 further protects bona fide third parties by providing that avoiding the transaction will not affect the rights of outsiders who acquired property in good faith and without knowledge of the breach.

- **Consequences of Disclosed Interests:**

Even when a director does disclose an interest and the transaction proceeds (with Board or shareholder approval as needed), the director must still ensure the deal is fair to the company. The Companies Act allows interested directors to be counted for quorum and even vote on the matter unless the constitution provides otherwise (section 152), but transparency is key. If the transaction was unfair or detrimental, shareholders might later challenge it (for example, via a derivative action or claiming the directors breached their duty of good faith). The safest course for an interested director is full disclosure and abstention from decision-making, coupled with obtaining independent approval (e.g. a shareholder resolution) for the deal.

In summary, under the Companies Act, a director who personally profits from a company transaction without proper disclosure and without ensuring fairness is in breach of his duties. The transaction can be unwound by the company, and the director can be made to give up any gains and compensate for losses, as discussed next.

Civil Remedies and Consequences for Breach of Duty

A director who breaches fiduciary duties and engages in conflicted self-dealing faces serious civil consequences under the Companies Act 2001. The law is designed to make the company whole and to sanction the misbehaving director. Key remedies and consequences include:

- **Account of Profits:**

As noted, section 143(1)(f) imposes a duty to account for any gain made by virtue of the directorship. This is reinforced by section 160(3)(b): if an officer (director) commits a breach of duty, the officer is liable to account to the company for any profit made as a result of the breach. In practical terms, the company can claim any secret profit or improper benefit the director obtained – for example, if the director routed a lucrative contract to a company he owns, or took a kickback, that profit can be recovered by the company. The law does not allow a faithless director to personally gain from their wrongdoing. This rule of accountability is applied strictly (akin to the fiduciary "no profit" rule in common law). For instance, in English case law (persuasive in Mauritius), directors in breach have been forced to disgorge profits even if the company didn't suffer a loss, the mere fact of unauthorized profit triggers liability.

- **Compensation for Losses (Damages):**

Section 160(3)(a) provides that the director and any person who knowingly participated in the breach is liable to compensate the company for any loss it suffers as a result of the breach. Thus, if the self-dealing transaction caused the company financial harm (e.g. the company overpaid for an asset to the benefit of the director, or the company lost a business opportunity the director usurped), the director must pay damages to put the company in the position it would have been in had the duty not been breached. This can include interest and consequential losses. Notably, those who assisted the director in the breach (for example, an accomplice who helped arrange a fraudulent transaction) are also liable to the company for its losses.

- **Rescission of the Contract:**

The company may rescind (cancel) the contract or transaction with the director. Section 160(3)(c) states that any contract or transaction between the officer and the company that was entered into in breach of the director's duties may be rescinded by the company. This overlaps with the voidability under section 149 discussed earlier. In essence, the company can undo the deal and recover its property or money, returning whatever the director provided. Rescission, combined with the account of profits and damages, ensures the company is not stuck with a bad bargain inflicted by the conflicted director. (If rescission is ordered, the director would have to repay any amount he received from the company, on top of accounting for profits he made.)

- **Injunctive Relief:**

The law also allows preventive remedies. Section 143(5) permits the company, a shareholder, or a debenture holder to seek a court injunction to restrain a director from doing any act or transaction in breach of their duties. Likewise, section 169 provides that the Court may, on application of the company (or a director or shareholder), restrain a director from engaging in conduct that contravenes the Act or the company's constitution. This means if a director is about to carry out a suspicious or harmful transaction (for example, transferring company funds to himself under dubious circumstances), the court can be asked to step in before the damage is done. In the context of a suspicious transaction, if detected early, an injunction could stop the transaction from proceeding. Such relief was sought in Ramloll v. Heritage Insurance Co Ltd (2016) (the "Directors, Beware!!" case), where an injunction was used to prevent directors from competing against the company while still in office. The Mauritian Supreme Court confirmed that both the company itself and its members can invoke these statutory remedies to hold directors to their duties.

- **Derivative or Personal Actions:**

If the company (controlled by the wrongdoer or his allies) fails to take action, shareholders have statutory avenues to sue. Under Part XII of the Companies Act, a shareholder can seek leave of the court to bring a derivative action (section 170) on behalf of the company to remedy a wrong done to the company by a director. Alternatively, a shareholder can bring a personal action (section 174) if their individual rights are affected, or an oppressed minority shareholder can seek remedies for prejudice (section 178). For example, if a majority director-shareholder siphoned company assets, minority shareholders might claim unfair prejudice. These provisions ensure that a director's breach does not go unchecked due to internal company dynamics. The law empowers stakeholders to enforce accountability even when the wrongdoers control the company.

- **Removal of the Director:**

From a corporate governance perspective, the director can be removed from office by the shareholders. The Companies Act allows shareholders to remove a director by resolution. In a public company, an ordinary resolution at a meeting suffices (simple majority). In a private company, removal may require a special resolution or be governed by the company's constitution. Once the breach comes to light, the shareholders (or the Board, if empowered) can convene a meeting to oust the director for misconduct. In practice, a director who has breached trust and embroiled the company in a suspicious, potentially illegal transaction is very likely to be removed to protect the company's interests and reputation. Removal is a first step to remedial action; it does not absolve the director of liability, but it prevents further harm. Company law also requires notice to the Registrar of Companies when a director is removed, to update the records.

- **Directors' Disqualification:**

Beyond internal removal, a director may face a court-ordered disqualification from holding any directorship. Section 338 of the Companies Act 2001 gives the Court power to disqualify a person from being a director or managing a company for up to 5 years in specified circumstances. Relevant grounds for disqualification include: (a) if the person has been convicted of an offence involving the promotion, formation or management of a company, or any offence involving dishonesty punishable by at least 3 months imprisonment; (b) if the person has committed an offence under the Companies Act's Part on directors' duties; or (c) if, while a director, the person persistently breached the Companies Act or was convicted for breaching director's duties. In the scenario, the director's behavior could trigger these grounds – for example, if the director's conduct amounted to a crime of dishonesty (such as fraud or money laundering, discussed later), or if he is convicted under any provision related to his directorial duties, the court can disqualify him. Disqualification means the individual cannot act as a director or be involved in management of any company for the period (up to 5 years) specified by the court. This is a protective measure to safeguard the public and creditors from rogue directors. Notably, an application for disqualification can be made by the Registrar of Companies, the Official Receiver, a liquidator, or any shareholder or creditor once the triggering events are present. For instance, if a director is convicted of a money laundering offence stemming from misuse of the company, the Registrar can seek an order to disqualify that director from future company management.

- **No Indemnity for Breach:**

It's worth noting that the Companies Act forbids companies from indemnifying directors for breaches of certain duties. Section 161 provides that a company cannot indemnify a director for liability arising from a breach of the duty to act in good faith and in the best interests of the company. Likewise, insurance cannot cover willful breaches. This ensures that errant directors bear the consequences personally, rather than shifting the burden to the company or its insurers. In other words, a director found to have acted disloyally or illegally cannot escape personal liability through an indemnity clause or D&O insurance for that misconduct.

In sum, under the Companies Act 2001, a director who breaches fiduciary duties and engages in an undisclosed, self-interested transaction will face civil liability to the company: they can be sued to compensate losses and surrender any secret profits, the transaction can be undone, and they can be removed and even disqualified from company offices. These remedies aim to restore the company's position and deter such misconduct.

(Example: In a hypothetical illustration, if a Mauritian director caused the company to buy an overpriced asset from his own side-business (without disclosing his interest) and pocketed the excess, the company could void the purchase, reclaim the payment, and force the director to repay his illicit profit, possibly via a derivative action by shareholders. The director could also be removed and banned from directing companies for several years. This reflects the approach mandated by sections 148, 149 and 160 of the Act.)*

Suspicious Transactions and FIAMLA 2002 Obligations

When a director's transaction is "suspicious" under anti-money laundering law, additional duties and liabilities come into play. Mauritius's Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) imposes obligations to combat money laundering, particularly on those in the financial system, and criminalizes laundering of illicit funds. There are two aspects to consider: (1) the duty to report suspicious transactions; and (2) the offence of money laundering itself, if the transaction involves illicit proceeds.

- **Definition of a Suspicious Transaction:**

FIAMLA defines a "suspicious transaction" as one which gives rise to a reasonable suspicion that it may involve money laundering, proceeds of crime, or funds linked to terrorism financing . In practice, a transaction might be deemed suspicious due to its unusual size, complexity, lack of economic justification, or links to high-risk jurisdictions or persons. In our scenario, the director's conflicted transaction could be suspicious if, for example, it involved moving company funds in unusual ways (perhaps to an unknown third party or offshore account) or if the director cannot reasonably explain the source or purpose of funds. Suspicion can be triggered internally (by the company's compliance officers) or by external observers (banks, regulators, etc., noticing irregularities).

- **Reporting Obligation (STR):**

Under section 14 of FIAMLA, every "reporting person" and every auditor must report a suspicious transaction to the Financial Intelligence Unit (FIU) as soon as they become aware of it . "Reporting persons" include institutions and professionals like banks, financial institutions, cash dealers, lawyers, accountants, estate agents and others defined under section 2 of FIAMLA (essentially those in positions to observe potential money laundering) . If the company in question falls into one of these categories (for instance, if it is a financial institution or a regulated business), it has a legal duty to file a Suspicious Transaction Report (STR) with the FIU. The law requires the report to be made within 5 working days of the suspicion arising. This is a strict timeline given the importance of timely intelligence in AML efforts. The STR must contain all relevant details of the transaction and the grounds of suspicion. Once filed, the FIU will analyze the report and can disseminate it to investigative authorities for action.

- **Offence for Failure to Report:**

Failing to report a suspicious transaction when one is required to do so is a criminal offence under FIAMLA.

Section 14(3) explicitly states that if a reporting person or auditor knows or reasonably ought to know of a suspicious transaction and fails to report it to the FIU within the 5-day deadline, they commit an offence. On conviction, the penalties are up to MUR 1,000,000 fine and 5 years' imprisonment . This applies to the individual (or institution) with the obligation. For example, if our director's company is a bank and the director (or the bank's Money Laundering Reporting Officer) willfully chose not to report the suspicious transaction, both the company (as a reporting institution) and any responsible officers could be prosecuted. In practice, regulators would also intervene – Section 18 of FIAMLA provides for regulatory action in the event of non-compliance , meaning the supervisory authorities (like the Bank of Mauritius or Financial Services Commission) can sanction the institution for failing in its AML duties (this could include fines, license suspension, or other disciplinary measures). Thus, the company itself may face penalties for non-reporting: for instance, banks in breach have been fined by regulators and risk criminal charges (noting that as a juristic person, a company cannot be imprisoned but can be fined; officers can be punished personally).

- **Anti-Money Laundering Controls:**

Aside from reporting, FIAMLA and related regulations impose internal control duties on reporting institutions – customer due diligence, record-keeping, appointment of compliance officers, etc. A director facilitating a suspicious deal might also be violating these requirements (for example, bypassing KYC rules). Section 17 of FIAMLA requires reporting persons to implement measures to prevent their services from being used for money laundering. Breach of these can attract administrative or criminal penalties. While these are ancillary to our main scenario, they underscore that a company and its directors must actively guard against being involved in illicit transactions.

Example: If the director siphoned funds from the company (breach of duty) and then attempted to obscure their origin by routing them through a complex transaction (say layering through multiple accounts or companies), this act of disguising the source can constitute money laundering. If he knew or suspected those funds were illicit (which he would, having stolen them), he is liable under section 3.

Corporate Criminal Liability:

Not only individuals, but companies themselves can be prosecuted for money laundering in Mauritius. FIAMLA applies to "any person", which legally includes corporate bodies. There have been instances where companies were charged with offences under FIAMLA when their directors or employees engaged in illegal cash dealings or laundering schemes (for example, a company was charged under FIAMLA section 5 for accepting large cash payments in breach of the cash threshold). Under the principle of attribution (sometimes called the identification doctrine), a director's criminal intent and acts can be imputed to the company if the director is a controlling mind of the company. Thus, in our scenario, if the company (through the director's actions) became involved in laundering money, the company could also be charged and, if convicted, face hefty fines and forfeiture of assets. While a company cannot be imprisoned, it can be fined up to the statutory maximum (MUR 10 million under FIAMLA, now increased under the FCC Act) and have offending assets seized. Moreover, conviction can severely damage the company's reputation and lead to loss of licenses or business.

- **Freezing and Investigation:**

When a suspicious transaction is reported or detected, the FIU can disseminate the information to investigatory authorities. Under FIAMLA, the FIU, Independent Commission Against Corruption (ICAC), police, and now the Financial Crimes Commission (FCC) coordinate to investigate. Assets involved can be frozen under court orders (the Asset Recovery Act may be invoked if proceeds of crime are identified). If the transaction is confirmed as laundering or linked to a crime, the director could also face asset forfeiture proceedings in addition to criminal charges.

In summary, FIAMLA creates a dual exposure for the director and company: an AML compliance exposure (failure to report suspicious activity) and a direct criminal exposure (money laundering itself). In our case, a director who engages the company in a dubious transaction for personal gain is likely to raise red flags of money laundering (e.g. handling the proceeds of his breach of trust). If he fails to report it (and the company was obliged to), that's a separate offence. And if he indeed moved or concealed ill-gotten funds, he can be prosecuted for laundering. The company, if a regulated entity, could be punished by regulators and charged as well.

Penalties:

To recap the penalty framework, failing to report an STR: up to MUR 1M fine + 5 years prison; money laundering: up to MUR 10M fine + 20 years prison (for individuals, and fine for companies). These are as per FIAMLA 2002 (which was amended multiple times to stiffen penalties). As discussed next, the Financial Crimes Commission Act 2023 has further impacted this area by consolidating and updating the offences and penalties for financial crimes including money laundering.

Financial Crimes Commission Act 2023: Investigation and Prosecution of Financial Crimes

Mauritius took a significant step in late 2023 by enacting the Financial Crimes Commission Act 2023 (FCC Act). This law, effective from March 29, 2024, overhauled the institutional and legal framework for fighting financial crime. It established an apex body – the Financial Crime Commission – and consolidated various offences (from money laundering to fraud and corruption) under a unified regime. The FCC Act is highly relevant to our scenario because it strengthens the enforcement mechanisms against a director's misconduct that involves financial crime (like fraud or money laundering) and introduces new offences that could directly criminalize a director's breach of duty for personal gain.

Key features of the FCC Act include:

- **Establishment of the FCC (Apex Agency):**

The Act creates the Financial Crime Commission as the central agency tasked with detecting, investigating, and prosecuting financial crimes. Previously, anti-corruption, anti-money laundering, and financial fraud enforcement were spread across multiple agencies (ICAC for corruption, FIU for financial intelligence, police for fraud, etc.). The FCC consolidates these efforts for greater effectiveness. It consists of a Director-General and Commissioners overseeing specialized divisions – an Investigation Division, an Asset Recovery & Management Division, an Education/Prevention Division, and a Legal Division for prosecutions. The goal is to improve case management and inter-agency cooperation, so that information on suspicious transactions (from FIU, for instance) can be acted on swiftly and cases can be brought to court efficiently.

- **Consolidation of Financial Crime Offences:**

The FCC Act is a consolidating legislation, grouping various offences under the umbrella of "financial crimes." It repealed and replaced provisions from earlier laws. Offences such as money laundering, fraud, corruption, financing of terrorism and even certain corporate malpractices are now redefined in the FCC Act. The Act refers to these collectively as "financial crimes," and importantly, it enhances the penalties for them. Under the FCC Act, most financial crimes carry a maximum penalty of a fine up to MUR 20 million and imprisonment up to 10 years ⊠ ⊠. This is a notable change – for example, money laundering, which under FIAMLA was 10m/20yrs, is now set at 20m/10yrs for consistency. While the prison term maximum is lowered, the fines are doubled, reflecting a policy choice to hit offenders harder financially.

- **Money Laundering and AML under FCC Act:**

Money laundering remains a major offence under the FCC Act, now falling under the category of financial crime with the aforementioned penalties. The FCC Act works in tandem with FIAMLA – FIAMLA still covers the preventative measures (like STR reporting via FIU, which remains operational), whereas the FCC Act takes over the prosecution of the offence of money laundering itself. Thus, if our director's suspicious transaction is found to be laundering, the prosecution in 2025 is likely to be brought under the FCC Act's money laundering provisions, with the Commission's Legal Division handling the case (in coordination with the Director of Public Prosecutions as needed). The elements of the offence (engaging in a transaction involving proceeds of crime, with knowledge or suspicion) remain essentially the same, but now labeled under the new law. The company could similarly be charged under the FCC Act for money laundering (and face up to MUR 20M fine). Additionally, the FCC's Asset Recovery Division can seek freezing and forfeiture of assets derived from the crime, under either the FCC Act or existing asset recovery laws.

- **New Offence:**

Fraud by Abuse of Position: Highly pertinent to the scenario of a director abusing their fiduciary position is the FCC Act's introduction of specific fraud offences, notably "fraud by abuse of position." Section 43 of the FCC Act makes it an offence for a person in a position of trust, who is expected to safeguard another's financial interests, to dishonestly abuse that position with the intention of making a gain for himself or causing a loss to another. This directly targets situations like company directors misusing their office. A director unquestionably "occupies a position in which he is expected to safeguard the financial interests" of the company and its stakeholders. If he dishonestly abuses that position (for example, by diverting company assets to himself, or entering the company into a shady deal for personal benefit) with intent to enrich himself or expose the company to loss, he commits the offence of fraud by abuse of position. The penalty on conviction is up to MUR 20 million fine and 10 years' imprisonment. This offence essentially criminalizes serious breaches of fiduciary duty. Under previous law, such conduct might have been prosecuted as traditional fraud or "breach of trust," but the new law specifically names it, making it easier to fit egregious director misconduct into a clear offence. In our scenario, the director's conflicted, self-enriching transaction likely amounts to a dishonest abuse of his position for personal gain, so he could be charged under section 43 of the FCC Act. This is a separate charge in addition to any money laundering charge – it targets the breach of duty aspect (even if the funds were not proceeds of crime, simply the act of abusing the position is criminal). This demonstrates Mauritius' resolve to hold directors accountable not just civilly but criminally for corporate misconduct. (Notably, section 43 is broad and could capture abuse by employees, agents, trustees, etc., but a company director is a prime example of the kind of fiduciary the law has in mind.)

- **Corruption and Private Sector Bribery:**

The FCC Act also merged the Prevention of Corruption Act into itself. Section 32 of the Financial Crimes Commission Act creates the specific offence of corruption in private entities. It applies where an employee or member of a private entity solicits, accepts, or obtains a gratification for doing or abstaining from doing any act in relation to the entity's business. It also criminalises the act of giving or offering such a gratification. In the present scenario, if the director accepted a benefit in exchange for procuring or influencing a company transaction, or offered such gratification to another employee for complicity, this conduct would fall within the scope of section 32, and is punishable by a fine of up to MUR 20 million and penal servitude for up to 10 years.

- **Investigative Powers and Prosecution:**

The FCC is empowered with strong investigative powers.

Although the FCC Act's text is detailed, in essence the Investigation Division can conduct inquiries into suspected financial crimes, summon witnesses, search premises (likely under warrant), and seize evidence. The Commission has taken over ongoing cases from ICAC and works closely with the FIU – for example, when the FIU receives a suspicious transaction report that indicates a possible crime (money laundering, fraud, etc.), it will disseminate it to the FCC's Investigation Division. The FCC can then investigate the director and the company. If evidence is found, the Legal Division of the FCC can institute prosecutions. The FCC Act specifically allows the Commission to prosecute financial crimes (this is a change because traditionally the DPP handles prosecutions; the FCC likely prosecutes in cooperation with or under delegation from the DPP, similar to how ICAC prosecuted corruption cases). The goal is to streamline bringing cases to court. Thus, in our scenario, once the transaction is flagged as suspicious and evidence of, say, fraud or money laundering by the director is gathered, the FCC can charge the director under the relevant sections of the FCC Act (money laundering, fraud by abuse, etc.) and bring him to trial.

- **Interaction with Companies Act Penalties:**

A conviction under the FCC Act would bolster the grounds for the director's disqualification under the Companies Act, as discussed. Specifically, it would be a conviction for an offence involving dishonesty (fraud, money laundering) and related to company management, which fits section 338(1)(a) and (c) for disqualification. The FCC Act itself does not directly disqualify directors, but the court, upon conviction, could certainly refer the matter for disqualification or the Registrar might apply for it. Additionally, upon conviction, the court can order the director to pay the fine, and possibly compensation orders (in some cases, courts can order criminal compensation to victims, i.e., the company, though the civil suit is the primary route for that).

- **Guidelines and Compliance:**

The FCC Act also gave the Commission authority to issue guidelines to institutions on preventing financial crimes. Interestingly, breach of any guidelines issued by the Commission is itself an offence, with a penalty of MUR 10,000 per month of non-compliance. This is more relevant to companies and financial institutions, for example, if the Commission issues guidelines on how companies should handle conflicts of interest or improve AML controls, a company's failure to comply could lead to fines. While Rs. 10,000/month is not very large, it is a coercive fine to ensure compliance over time. This indicates that not only will the FCC prosecute blatant crimes, but it will also push companies to adhere to best practices through enforceable guidelines.

In summary, the FCC Act 2023 dramatically strengthens the framework for addressing the director's misconduct in question. The director's actions likely violate one or more newly consolidated financial crime offences (fraud by abuse of position, money laundering, etc.). The Financial Crime Commission can investigate the matter thoroughly (leveraging FIU intelligence) and prosecute the director, seeking criminal penalties. The available penalties are severe, up to Rs. 20 million in fines and 10 years' imprisonment for each offence, and send a strong deterrent message. The FCC Act thus ensures that director misconduct with financial crime implications is met with both civil corporate consequences and criminal justice consequences.

(Illustrative case: In 2024, the FCC (formerly ICAC) prosecuted a company director for laundering the proceeds of an embezzlement scheme – see ICAC (now FCC) v Subdhan & Anor, where a director was convicted for depositing embezzled company funds into personal accounts. Under the new Act, such cases are handled by the FCC with the updated charges and penalties. Likewise, if a Mauritian director secretly siphons company money (a breach of duty) and tries to hide it, the FCC Act would allow charging him with fraud by abuse of position in addition to money laundering, reflecting both the breach of fiduciary duty and the illicit handling of funds.)

Liability of the Director vs. the Company

It is important to distinguish the consequences for the individual director and those for the company itself when a breach of duty and suspicious transaction occur:

- **Director's Civil Liability:**

The director is personally liable to the company for breach of fiduciary duty. As detailed, he must restore any profits made and compensate losses. He may face shareholder lawsuits (derivative actions) compelling him to account for his misconduct. His removal from office is virtually certain, and he may have to pay the company's legal costs as well if litigation confirms his breach. In cases of fraud, the director might also face a civil action for breach of trust or misfeasance. For example, in a winding-up, a liquidator can sue a director for misfeasance to recover assets.

- **Director's Criminal Liability:**

The director faces potential criminal charges on multiple fronts. Under FIAMLA (as amended by FCC Act), he could be charged with money laundering (with intent or suspicion) and face imprisonment and fines. Under the FCC Act, he can be charged with fraud by abuse of position. If any bribery or corruption is involved (e.g., he took a bribe from a third party to cause the company to do the transaction), he could be charged with corruption in private entities under the FCC Act. Each charge could result in separate penalties (though likely served concurrently if arising from the same facts). The director also endures the reputational damage of criminal proceedings and, if convicted, a criminal record.

- **Disqualification:**

Post-conviction (or even without conviction, if other grounds apply), the director can be disqualified by court order from serving as a director in any company for up to 5 years. This can effectively end the individual's corporate career for that period. Acting as director while disqualified is itself a criminal offence with further fines and imprisonment (up to MUR 1M and 5 years). Therefore, the individual risks not only immediate penalties but also future disability to engage in business management.

- **Company's Liability and Penalties:**

The company (as a separate entity) may also suffer legal consequences:

Contractual and Financial:

The company might be able to void the tainted transaction and recover its money (good for the company), but if third-party rights are involved, the company could face counterclaims or have to unravel complex transfers. If the company lost money due to the director, it may not recover 100% (say, if the director is insolvent and can't fully compensate). The company might have to write off some losses, which affects shareholders and creditors.

Regulatory:

If the company is in a regulated sector, regulators can impose sanctions. For example, a bank that failed to report a suspicious transaction or that facilitated money laundering can face administrative penalties or license suspension by the Bank of Mauritius or the FSC. Under FIAMLA's regulatory enforcement (section 18), the regulatory authority can issue directions, penalties, or even revoke licenses for serious compliance failures. In extreme cases, regulators might require the company to remove certain officers (directors or managers) or to implement corrective measures at the company's cost (e.g., an independent compliance monitor).

Criminal Fines:

The company itself, if prosecuted for money laundering or related offences, can be fined heavily. Under the new FCC regime, that could be up to MUR 20 million. A fine of that magnitude could be crippling for many businesses. Even the older FIAMLA fine of up to 10 million is substantial. For instance, if the company was used as a vehicle to launder money (even by its director), a court may impose a large fine to send a message. Additionally, courts can order forfeiture of assets involved in the offence – the company could lose those assets (e.g., bank balances or property linked to the laundering).

Civil Liability to Third Parties:

The company might face lawsuits from third parties if they were harmed by the transaction. For example, creditors of the company may sue if the director's actions were part of fraud on creditors. Or if the transaction was part of a scheme that defrauded investors, the company could be co-defendant in civil fraud claims.

Reputational and Operational Consequences:

While not a legal penalty per se, the fallout can be dire – the company may lose business partners and banking relationships (banks may shut accounts to avoid AML risk). It could be blacklisted or see its stock value (if publicly traded) plummet. In worst cases, the scandal and losses could push the company into insolvency, leading to winding-up. During winding-up or administration, further investigations would occur (an Official Receiver or liquidator scrutinizing past directors' conduct), potentially leading to additional claims or even other directors being scrutinized for failing to prevent the misconduct.

- **Penalties under FCC Guidelines:**

If the company fails to implement any FCC guidelines (say on corporate governance to prevent such abuses), it could incur the monthly fines (though minor compared to other penalties) and further regulatory scrutiny ⊠.

In light of the above, both the director and the company have significant exposure. The director faces personal civil liability and personal criminal liability (including jail time), while the company may suffer financial penalties, legal action, and business consequences. It is in the company's interest, upon discovering such a breach and suspicious transaction, to take remedial action swiftly: inform the authorities (to fulfill any reporting duty and show cooperation), sue the director to recover assets, and strengthen internal controls to prevent a recurrence. Authorities often look favorably on self-disclosure – for instance, if the company reports the matter to the FIU/FCC, it might avoid being treated as complicit (whereas covering it up would exacerbate its liability).

Conclusion

Under Mauritian law, the scenario of a director breaching his fiduciary duty for personal gain in a suspicious transaction triggers a confluence of corporate law remedies and criminal law enforcement. The Companies Act 2001 ensures that the director can be held civilly accountable: he owes duties of loyalty and good faith which he clearly breached, so the company can void the self-dealing transaction, recover its losses, and strip the director of any illicit profits. The director can be removed from the board and even disqualified by the court from serving as a director for up to 5 years. These measures protect the company and its stakeholders from the immediate harm and from future misconduct by that individual.

Simultaneously, because the facts involve a suspected financial crime, the anti-money laundering regime and the Financial Crimes Commission come into play. FIAMLA imposes a duty to report suspicious transactions to the FIU, a duty which, if neglected by the director or company, constitutes a criminal offence with its own penalties. Moreover, if the transaction indeed involves dirty money or was part of concealing the director's misappropriation, it constitutes money laundering, which is aggressively prosecuted in Mauritius. The new FCC Act 2023 consolidates such offences and empowers the Financial Crime Commission to investigate and prosecute the director's conduct as a financial crime. Under the FCC Act, the director's misdeed likely qualifies as "fraud by abuse of position" – a criminal offence directly addressing the abuse of one's fiduciary role for personal gain. The director could thus face criminal charges for fraud and/or money laundering, carrying up to 10 years' imprisonment and multi-million rupee fines.

For the company, while it is a victim of its director's breach, it must also be cautious to comply with the law – failing to report the suspicious activity or turning a blind eye could render the company (or its officers) an accomplice in the eyes of the law. The company could be sanctioned by regulators and fined in court if it is found to have facilitated money laundering. On the other hand, by taking swift action (reporting to FIU/FCC, suing the director, etc.), the company can mitigate its own exposure.

In essence, Mauritian law (as of 2025) provides a comprehensive toolkit to deal with such a scenario: civil remedies to undo the harm to the company, and criminal processes to punish the wrongdoing and deter future misconduct. A director who betrays his duty for personal benefit and engages in suspicious dealings can expect to be personally financially liable, removed from his position, banned from directorship, and prosecuted. The transaction itself will be closely scrutinized, likely unwound, and if it ties into money laundering, all parties involved (director and company included) face the prospect of severe penalties.

The combined application of the Companies Act 2001, FIAMLA 2002, and Financial Crimes Commission Act 2023 thus ensures that such conduct is met with full force of the law – protecting corporate stakeholders and upholding the integrity of Mauritius's financial system.

Sources:

Companies Act 2001 (Mauritius), especially sections 143, 148–150, 160, 338.

Financial Intelligence and Anti-Money Laundering Act 2002, sections 3, 14–15, 17–18.

Financial Crimes Commission Act 2023, Act No. 20 of 2023 (Mauritius), establishing the Financial Crime Commission and defining financial crimes (fraud, money laundering, etc.).

WHAT THE LAW SAYS

"Directors, Beware!!" – analysis of directors' duties under Mauritian law.

Apex Law Group, Regulatory Update: The Financial Crime Commission Act 2023.

MAURITIUS COMPETENCE AND RECOMMENDATIONS

International Concerns Over Mauritius's Enforcement of Financial Crime Laws

Introduction

Mauritius, long praised for its stable democracy and robust financial sector, has faced growing international scrutiny regarding the enforcement of its financial crime laws. Global bodies and foreign governments have raised concerns that, despite strong laws on the books, Mauritian authorities have struggled to effectively investigate and prosecute offenses like money laundering, corporate fraud, and corruption. Reports from the Financial Action Task Force (FATF), Organisation for Economic Co-operation and Development (OECD), United States government, and watchdog NGOs indicate systemic weaknesses: low prosecution and conviction rates for financial crimes, limited investigative capacity, questions about institutional independence, and poor inter-agency coordination.

FATF Findings: Anti-Money Laundering Enforcement Gaps

FATF Mutual Evaluation (2018):

In 2018, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), an FATF-style regional body, assessed Mauritius's anti-money laundering and counter-terrorist financing framework. The mutual evaluation found that Mauritius had a solid legal framework but "the outcome of ML [money laundering] investigations and prosecutions did not appear to be in line with the risk profile of the country". In other words, few money laundering cases were successfully brought given Mauritius's sizable offshore financial sector. Investigators rarely pursued money laundering charges alongside the underlying predicate offenses, and no cases involving foreign predicates were prosecuted. Authorities also lacked comprehensive statistics on enforcement results, making it difficult to gauge effectiveness. The evaluation noted skill gaps: law enforcement agencies (e.g. the Central CID and Anti-Drug units) had limited training in following financial trails and using financial intelligence from the Financial Intelligence Unit (FIU). Moreover, coordination was weak, there were no prosecutor-led taskforces to guide complex financial investigations, and except for the anti-corruption agency, there was no formal feedback loop to the FIU on referred cases. Overall, Mauritius's effectiveness in investigating and prosecuting money laundering was rated only "Moderate," indicating significant room for improvement.

Grey Listing by FATF (2020):

Persistent deficiencies prompted the FATF to take the rare step of grey-listing Mauritius in February 2020, flagging "strategic deficiencies" in its anti-money laundering/countering financing of terrorism (AML/CFT) regime. Inclusion on the FATF's "Jurisdictions under Increased Monitoring" list (the grey list) signaled international concern that Mauritius's enforcement efforts were inadequate. FATF examiners identified weaknesses such as insufficient risk understanding, lax supervision of certain sectors, and a failure to demonstrate effective prosecution of financial crimes. This grey listing, followed by the EU blacklisting Mauritius as a high-risk jurisdiction, dealt a serious reputational blow to a country that had marketed itself as a clean and well-regulated financial center. Amid the COVID-19 downturn, the sanctions underscored how enforcement lapses can translate into economic consequences, as banks and investors reevaluate exposure to a grey-listed jurisdiction.

Removal from Grey List (2021) and Remaining Issues:

Mauritius responded with urgency, enacting reforms to address FATF's action plan. By October 2021, the FATF recognized "significant progress in improving [Mauritius's] AML/CFT regime" and removed the country from the grey list. Key steps included tightening beneficial ownership rules, enhancing regulatory oversight, and increasing training and resources for financial investigators. However, while technical compliance with FATF standards improved, Mauritius is now rated Compliant or Largely Compliant on 40/40 FATF Recommendations, effectiveness on the ground remained moderate. As of the latest follow-up (2022), Mauritius had zero outcomes rated "high" or "substantial" in effectiveness. In FATF's eyes, this means that despite reforms, law enforcement results are still not commensurate with the risks. For example, the U.S. Department of State's 2022 analysis pointed out that Mauritius remains an offshore financial hub vulnerable to abuse, and that prosecutions of money laundering still lag behind the volume of suspicious financial activity passing through the jurisdiction.

Anti-Corruption Efforts: OECD and Transparency Concerns

Enforcement of Corruption Laws:

Mauritius has long had a legal framework criminalizing public and private sector corruption, notably under the Prevention of Corruption Act 2002 which established the Independent Commission Against Corruption (ICAC). In practice, however, enforcement has been uneven. Transparency International observes that while Mauritius benefits from "robust laws and a strong anti-corruption system in its institutions," these laws are "enforced inefficiently and unevenly". Notably, the country has "not [had] a high corruption prosecution and conviction rate," even as its anti-corruption agency achieved some success in reducing petty bribery through preventative measures . Over the years 2009–2016, ICAC focused on institutional reforms that curbed low-level bribery (e.g. in public services), but this did not translate into many high-level convictions. A pattern emerged where investigations of senior officials seldom resulted in firm punishment, fueling perceptions of impunity.

Transparency International & NGO Views:

International and local NGOs have increasingly highlighted a gap between Mauritius's anti-corruption rhetoric and enforcement reality. A 2020 Transparency International analysis questioned why, despite numerous anti-corruption initiatives and platforms, "corruption and the accompanying impunity [are] on the rise" in Mauritius . The Corruption Perceptions Index (CPI) for 2022, which ranks countries by perceived corruption levels, placed Mauritius 57th globally (score 50/100), dropping four points from the previous year. This decline suggests growing skepticism among experts and businesspeople about the integrity of Mauritian governance. The Bertelsmann Stiftung's Transformation Index (BTI 2024) bluntly attributes this to the "increasing and blatant politicization of key institutions – including anticorruption bodies, the police force and financial regulators – seriously jeopardizing their independence".

U.S. Department of Justice and Law Enforcement Cooperation:

The U.S. Department of Justice (DOJ) has indirectly spotlighted Mauritius's role (and vulnerabilities) in transnational financial crime through its cases and capacity-building efforts. A noteworthy example was the DOJ's first-ever prosecution under the U.S. Foreign Account Tax Compliance Act (FATCA) in 2018, which uncovered an international web of tax evasion and money laundering schemes. In that case, a Mauritius-based financial services professional, the general manager of a management company in the Mauritius offshore hub (Ebène), pleaded guilty in U.S. court to conspiring to launder money. U.S. prosecutors alleged he helped an undercover agent conceal proceeds of fraud in offshore structures. This case demonstrated how criminals could utilize Mauritius-based corporate service providers to facilitate illicit flows, and it highlighted "the potentially pernicious role…professionals can play in facilitating criminal schemes".

The implication is that if local oversight and enforcement were stronger, e.g. if Mauritian authorities closely monitored fiduciary companies and cracked down on complicity in money laundering, such schemes would be harder to perpetrate.

In addition to enforcement actions, the DOJ (through the FBI and other agencies) has been actively training and assisting Mauritian law enforcement in financial investigations. In 2023, an FBI special agent stationed in Mauritius noted the country "has taken many steps to combat money laundering, corruption, and financial crimes over the last few years" but still faces "challenges [that] small nations face in tackling financial crime." The FBI ran workshops on "Investigating and Prosecuting Complex Financial Crimes" in Mauritius with DOJ attorneys, aiming to "provide investigators [with] hands-on experience [using] advanced investigative techniques" and to improve "cooperation and collaboration across agencies." These efforts indicate both U.S. confidence in Mauritius's commitment to improve and an acknowledgment of current capacity shortfalls. Essentially, the U.S. government's view is that Mauritius's laws meet international standards, but law enforcement personnel need more expertise and better coordination to fully implement them. Until those gaps are closed, the United States will continue to view Mauritius as a jurisdiction requiring caution. This is evidenced by FinCEN advisories and the inclusion of Mauritius in U.S. lists (prior to 2022) of countries to exercise enhanced due diligence on, due to the FATF grey listing.

Key Enforcement Challenges and Systemic Weaknesses

Drawing on the above reports, a number of recurring enforcement-related issues emerge in Mauritius's case:

Limited Investigative Capacity:

International evaluations have repeatedly pointed out shortages in specialized skills and resources for financial crime investigations. FATF evaluators in 2018 found that police and drug enforcement units "lack skills and some training in investigating different types of ML cases," especially in conducting parallel financial investigations using intelligence from the FIU. Complex cases – involving forensic accounting, cyber elements, or international cooperation – have strained the capacity of existing investigative units. This has been acknowledged domestically; the new Financial Crimes Commission (FCC) in 2024 immediately began training its investigators (with help from the UK's National Crime Agency and FBI) to upgrade skills in intelligence gathering and case triage. Until these skills are widespread, investigations may fail to connect the dots necessary for successful prosecutions.

The lack of a robust case management system for tracking money laundering and corruption cases (noted by FATF) further hampered investigators' ability to manage complex, multi-agency cases.

Institutional Independence and Political Will:

Many international observers link weak enforcement to issues of institutional independence and political interference. The OECD and TI have signaled that law enforcement agencies must be free from political influence to effectively tackle financial crimes involving powerful actors. However, as the BTI report states, the "blatant politicization" of institutions like the police and anticorruption agency has undermined their credibility. There have been allegations that investigations are sometimes selective. For instance, opposition figures have claimed that under certain governments, ICAC targeted political opponents while allies enjoyed leniency – and conversely, new regimes have in turn targeted predecessors. Such patterns, if true, mean that enforcement is uneven – vigorous in some cases, obstructed or lethargic in others – depending on political calculations. The FATF and OECD stress the importance of operational autonomy: investigators and prosecutors need assurance they can pursue evidence wherever it leads, without fear of career repercussions. Recent developments give a mixed picture. On one hand, the FCC concentrates authority over financial crime enforcement, which could insulate decisions from day-to-day politics. On the other, critics worry that consolidating power could also centralize political control if proper safeguards aren't in place. The coming years (and the OECD bribery Working Group's assessment) will likely focus heavily on whether Mauritius can demonstrate genuine independence in its enforcement actions.

Recommendations

The FCC and the laws of Mauritius adequately cover issues of:

1. **Directors' Conflicts of Interest**
2. **Using one's position for illegal financial gains**
3. **Insider Trading**

The public statements of Mark Florman and Louis Rivalland are not only shocking and ridiculous but show their total disregard to the laws and the spirit of the laws of the Republic of Mauritius. It is a big test of credibility for the FCC and unique chance to prove that they act in an independent manner regardless of the positions of power that the two named directors are in.

One Veritas is willing to assist the Mauritius authorities and the FCC with adequate training and investigators should they truly wish to shed light on the murky dealings of Mark Florman and Louis Rivalland.

The FATF is reviewing progress in Mauritius at the time of publication of this report. The failure by the government to crack down on white collar crimes may cause Mauritius to fall back in the Grey List.

Potential Indictments for Mark Florman

CHARGES REGARDING THE ECHIL TRANSACTION:

1. CONFLICT OF INTEREST AND FAILURE TO DISCLOSE

Between 23 August 2023 and 13 June 2024, on two separate occasions, Mark Florman serving as Chairman of the MIC, knowingly engaged in transactions where he had a personal financial interest. He failed to disclose this conflict to the board of directors, thereby breaching his fiduciary duties.

Applicable Laws:

Companies Act 2001, Section 143(1): Obligation of directors to disclose interests.

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

2. ILLEGAL PERSONAL GAIN

The accused benefited financially from the aforementioned transaction without proper authorization or disclosure.

Applicable Laws:

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

Financial Intelligence and Anti-Money Laundering Act 2002, Section 3: Offense of money laundering.

3. COLLUSION IN APPROVING SUSPICIOUS TRANSACTION

On 23 August 2023 and 13 June 2024, the accused colluded with other MIC board members to approve a transaction that was suspicious in nature, without conducting due diligence or reporting it to the relevant authorities.

Applicable Laws:

Financial Intelligence and Anti-Money Laundering Act 2002, Section 14: Obligation to report suspicious transactions.

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

Summary of Offenses

1.Breach of fiduciary duty by failing to disclose a conflict of interest
2. Illegal personal enrichment through undisclosed transactions.
3. Collusion in approving and failing to report a suspicious transaction.

Legal Provisions Cited

Companies Act 2001:
Section 143(1): Directors must disclose any interest in a transaction.

Financial Crimes Commission Act 2023:
Section 43: It is an offense for a person to abuse their position in a public or private body for personal gain.

Financial Intelligence and Anti-Money Laundering Act 2002:
Section 3: Defines and criminalizes money laundering activities.
Section 14: Mandates the reporting of suspicious transactions by relevant parties.

Conclusion

The actions of Mark Florman constitute serious offenses under Mauritian law, undermining the integrity of corporate governance and financial systems. The prosecution seeks appropriate legal remedies, including penalties and restitution, as provided by the aforementioned statutes.

CHARGES REGARDING THE NMH CASE:

1. INSIDER DEALING: DEALING IN SECURITIES WHILE IN POSSESSION OF INSIDE INFORMATION

(Contrary to section 111(1)(a) and punishable under section 111(5) of the Securities Act 2005)

Louis Rivalland, being at all material times the Chief Executive Officer of Swan Group and a Non-Executive Director of New Mauritius Hotels Ltd (NMH), a reporting issuer within the meaning of the Securities Act 2005, did, on or about the 16th day of February 2016, while in possession of inside information concerning NMH, namely:

- The existence of confidential and undisclosed negotiations and agreements between ENL Group, Rogers & Co Ltd, and other related parties for the coordinated acquisition of a controlling interest in NMH;

• The strategic plan to prevent a potential takeover of NMH by Sunnystars Holding Ltd by acquiring available shares at a pre-arranged price;

• The true financial position and performance of NMH, including non-public financial results for the quarter ending 31 December 2015;

Louis Rivalland allowed Swan Life Ltd, a subsidiary of Swan Group, to deal in NMH shares on the Stock Exchange of Mauritius by purchasing approximately 3.69% of NMH's issued share capital, such dealing being undertaken whilst in possession of inside information and not generally available to the investing public.

2. INSIDER DEALING: PROCURING ANOTHER PERSON TO DEAL IN SECURITIES

(Contrary to section 111(1)(b) and punishable under section 111(5) of the Securities Act 2005)

Louis Rivalland, as aforesaid, did counsel, procure, or cause Swan Life Ltd, being a person within his control and management, to deal in NMH shares whilst in possession of the said inside information, contrary to section 111(1)(b) of the Securities Act 2005.

3. BREACH OF DUTY AS A DIRECTOR OF NMH

(Contrary to sections 143 and 146 of the Companies Act 2001)

Louis Rivalland, being at all material times a director of NMH, owed statutory and fiduciary duties to act honestly, in good faith, and in the best interests of NMH and its shareholders.

Notwithstanding such duties, the accused did act in bad faith and contrary to the interests of NMH and its minority shareholders by:

• Participating in a scheme to prevent a legitimate takeover bid by orchestrating share purchases at non-commercial terms;

• Failing to disclose conflicts of interest arising from his dual role as director of NMH and CEO of Swan Group;

• Facilitating transactions adverse to the equitable treatment of shareholders.

4. ILLEGAL PERSONAL GAIN

The accused illegally gained through collusion as it was his eronous belief that the colluders would be exempt from organising a mandatory offer to the tuned of at least $ 250 Million representating the value of the balance of shares in NMH namely 70% that they did not have to buy as a result of having pretended to do it in their individual capacities. Such savings hererin are proceeds of crime.

Applicable Laws:

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

Financial Intelligence and Anti-Money Laundering Act 2002, Section 3: Offense of money laundering.

STATEMENT OF OFFENCE FOR ALL CHARGES:

These acts are in breach of the provisions of the Securities Act 2005 and Companies Act 2001, and upon conviction, the accused is liable to:

- A fine not exceeding MUR 1,000,000 or three times the amount of profit gained or loss avoided, whichever is higher;
- Imprisonment for a term not exceeding ten years;
- Disqualification from acting as a director of any company;
- Confiscation of any benefits derived from the offences.

CHARGES REGARDING THE ECHIL TRANSACTION:

1. CONFLICT OF INTEREST AND FAILURE TO DISCLOSE

Between 5 February 2024 and 12 September 2024, on two separate occasions, Louis Rivalland serving as first Director of the MIC, knowingly engaged in transactions where he had a personal financial interest. He failed to disclose this conflict to the board of directors, thereby breaching his fiduciary duties.

Applicable Laws:

Companies Act 2001, Section 143(1): Obligation of directors to disclose interests.

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

2. ILLEGAL PERSONAL GAIN

The accused benefited financially from the aforementioned transaction without proper authorization or disclosure.

Applicable Laws:

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

Financial Intelligence and Anti-Money Laundering Act 2002, Section 3: Offense of money laundering.

3. COLLUSION IN APPROVING SUSPICIOUS TRANSACTION

On 5 February 2024 and 12 September 2024 , the accused colluded with other MIC board members to approve a transaction that was suspicious in nature, without conducting due diligence or reporting it to the relevant authorities.

Applicable Laws:

Financial Intelligence and Anti-Money Laundering Act 2002, Section 14: Obligation to report suspicious transactions.

Financial Crimes Commission Act 2023, Section 43: Offense of abuse of position.

Summary of Offenses

1. Breach of fiduciary duty by failing to disclose a conflict of interest
2. Illegal personal enrichment through undisclosed transactions.
3. Collusion in approving and failing to report a suspicious transaction.

Legal Provisions Cited

Companies Act 2001:
Section 143(1): Directors must disclose any interest in a transaction.

Financial Crimes Commission Act 2023:
Section 43: It is an offense for a person to abuse their position in a public or private body for personal gain.

Financial Intelligence and Anti-Money Laundering Act 2002:
Section 3: Defines and criminalizes money laundering activities.
Section 14: Mandates the reporting of suspicious transactions by relevant parties.

Conclusion

The actions of Louis Rivalland constitute serious offenses under Mauritian law, undermining the integrity of corporate governance and financial systems. The prosecution seeks appropriate legal remedies, including penalties and restitution, as provided by the aforementioned statutes.

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