

GUIDELINES

ACQUISITION OF PROPERTY BY NON-CITIZENS



IMARA

Trust & Corporate Services

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The Non-Citizens (Property Restriction) Act has been amended in December 2016 to allow foreigners to purchase apartments in condominium developments of at least two levels above ground (G+2) with the prior approval of the Board of Investment provided the purchase price of an apartment is not less than MUR 6 million or its equivalent in any other hard convertible foreign currency.

Any non-citizen, with or without an occupation permit, residence permit, permanent residence permit, may acquire apartments.

Thus, non-citizens are not restricted from acquiring:

- A residential unit developed under the IRS, RES and PDS.
- A residential unit developed in a smart city.
- An apartment located in a building of at least two floors above ground floor.

ACQUISITION OF APARTMENT- ELIGIBILITY

The following non-citizens are eligible to submit an application to acquire one or more apartment(s) for use as residence:

- a) A non-citizen.
- b) A holder of Permanent Residence Permit.
- c) A holder of an Occupation Permit as investor, professional and self-employed.
- d) A holder of a Residence Permit as a retired non-citizen.
- e) A holder of a Residence Permit under the IRS/RES/PDS/SCS.
- f) A company incorporated or registered under the Companies Act and registered with Board of Investment.
- g) A société, where its deed of formation is deposited with the registrar of companies and registered with Board of Investment.
- h) A limited partnership under the Limited Partnerships Act and registered with Board of Investment.
- i) A trust, where the trusteeship services are provided by a qualified trustee and registered with Board of Investment.
- j) A Foundation under the Foundation Act registered with Board of Investment.

DEFINITION OF APARTMENT

An 'apartment' is defined as a residential unit that forms part within blocks of residential dwellings located in a building of at least 2 floors above ground floor.

On approval of the application, the non-citizen will be entitled to buy one or more apartment(s), together with part of the common areas collectively owned in "copropriété" in proportion relating to the size of the apartment.

BASIS OF ACQUISITION

1. An apartment may be acquired either on the basis of a plan, during construction phase or when the construction is completed.
2. Where the acquisition of an apartment is made on the basis of a plan or during construction phase, the contract shall be governed by the provisions of a “vente a terme” or “vente en l'état futur d'achèvement” as the case may be, in accordance with the provisions of articles 1601-1 to 1601-45 of the Code Civil Mauricien
3. No application shall be considered where the acquisition of an apartment is made through the transfer of part sociale in a société which gives right of ownership, occupation usage in an immovable property or any part thereof where the deed is in respect of a “Société Civile Immobilière D'Attribution (SCIA)”.
4. No application shall be considered where the apartment is located in a block of building constructed on “State land” which includes defence lands, Pas Géométriques or projects developed under the Housing Estate Scheme projects.

SCREENING OF APPLICATIONS SUBMITTED FOR ACQUISITION OF APARTMENT

1. All applications shall be made to the Managing Director of BOI.
2. An application shall be considered as ready for processing by BOI at the date by which all the information, particulars and documents have been duly submitted and considered as complete by BOI.
3. The application may be submitted by the applicant or a designated third party (notary, consultant, project developer, real estate agency).

DOCUMENTS TO BE SUBMITTED AT TIME OF APPLICATION

All applications must also be accompanied by the following mandatory documents:

1. Duly filled-in application form;
2. A presale agreement between applicant and the vendor that should be duly endorsed by a Notary Public;
3. A site location plan;
4. A memorandum from the Notary certifying that the apartment forms part of a residential block located in a building of not less than ground plus two floors;
5. A letter from a local or international recognised bank showing that the applicant has the necessary funds to finance the acquisition;
6. A certified true copy of Certificate of Incorporation along with its register of shareholders where the vendor is a Company/ Societe/ Trust/ Partnership/ Foundation and a certified true copy of the National Identity Card of the vendor;
7. A copy of the valuation report from a sworn valuation surveyor (not applicable if the acquisition is to be made on the basis of a plan or during construction);
8. A copy of the Building and Land Use Permit or the Outline Planning Permission (applicable if the acquisition is to be made on the basis of a plan or during construction); and
9. A letter from a registered financial institution confirming that it will provide a 'Garantie Financière d'Achèvement' (GFA) for the project for sales made under the provisions of the vente en l'état futur d'achèvement (VEFA) (applicable if the acquisition is to be made on the basis of a plan or during construction).

In the case where the property will be acquired by a non-citizen in his/her own name the following additional documents must be submitted to BOI:

- Duly authenticated copy of first 5 pages of passport;
- KYC or a bank reference from a local or international recognized bank;

Note:

1. Should the property be acquired jointly, a marriage certificate and a certified copy of passport of the spouse must be submitted.
2. No application shall be considered if the apartment is being acquired jointly by common law partners.

In the case of a company, the following additional documents must be submitted to BOI:

- Certificate of registration evidencing the company is registered as a foreign company under the Companies Act 2001 or Certificate of incorporation under the Companies Act 2001;
- A true certified copy of the register of shareholder(s);
- Duly authenticated copy of first 5 pages of passport of shareholder(s);
- KYC or a bank reference from a local or international recognised bank;

In the case of a Société, the following additional documents must be submitted to BOI:

- Evidence of the Société having a file number with the Registrar of Companies and deed of formation deposited with Registrar of Companies;
- Status of the Société;
- Duly authenticated copy of first 5 pages of passport of active member(s);
- KYC or a bank reference from a local or international recognised bank;

In the case of a Trust, the following additional documents must be submitted to BOI:

- A copy of the Trust deed;
- Evidence from the Financial Services Commission that the trustee is a qualified trustee under the Trust Act 2001;
- Details of the beneficiary, trustee and settlor;
- Duly authenticated copy of first 5 pages of passport of each active beneficiary;
- KYC or a bank reference from a local or international recognised bank;

In the case of a Limited Partnership, the following additional documents must be submitted to BOI:

- Partnership agreement;
- Registration certificate of the Limited Partnership by the Registrar of Companies;
- Duly authenticated copy of first 5 pages of passport of active partner(s);
- KYC or a bank reference from a local or international recognised bank;

In the case of a Foundation, the following additional documents must be submitted to BOI:

- The charter of Foundation;
- Registration certificate of the Foundation by the Registrar of Companies;
- Details of the beneficiary, founder, secretary and council;
- Duly authenticated copy of first 5 pages of passport of each active beneficiary;
- KYC or a bank reference from a local or international recognised bank;

In the case of a Foundation, the following additional documents must be submitted to BOI:

- The charter of Foundation;
- Registration certificate of the Foundation by the Registrar of Companies;
- Details of the beneficiary, founder, secretary and council;
- Duly authenticated copy of first 5 pages of passport of each active beneficiary;
- KYC or a bank reference from a local or international recognised bank;

RESALE OR TRANSFER OF APARTMENT(S)

1. Where the non-citizen owner of the apartments intends to sell or transfer one or more apartment(s), he/she is required, within 30 days prior to the sale, give notice in writing thereof to the Managing Director of BOI.
2. The owner of a residential property is allowed to sell his/her property at no minimum price.
3. Where the subsequent buyer is a non-citizen, he/she is required to submit a fresh application as per these guidelines.

DUTY AND TAXES ON ACQUISITION OF AN APARTMENT (FIRST SALE)

Land Transfer Tax for property (payable by the seller of the property on the value of the property)	>	5%	of the value of the property
Registration Duty (payable by the applicant on the value of the property)	>	5%	of the value of the property

DUTY AND TAXES ON ACQUISITION OF AN APARTMENT (RE-SALE)

Land Transfer Tax for property (payable by the seller of the property on the value of the property)	>	5%	of the value of the property
Registration Duty (payable by the applicant on the value of the property)	>	5%	of the value of the property

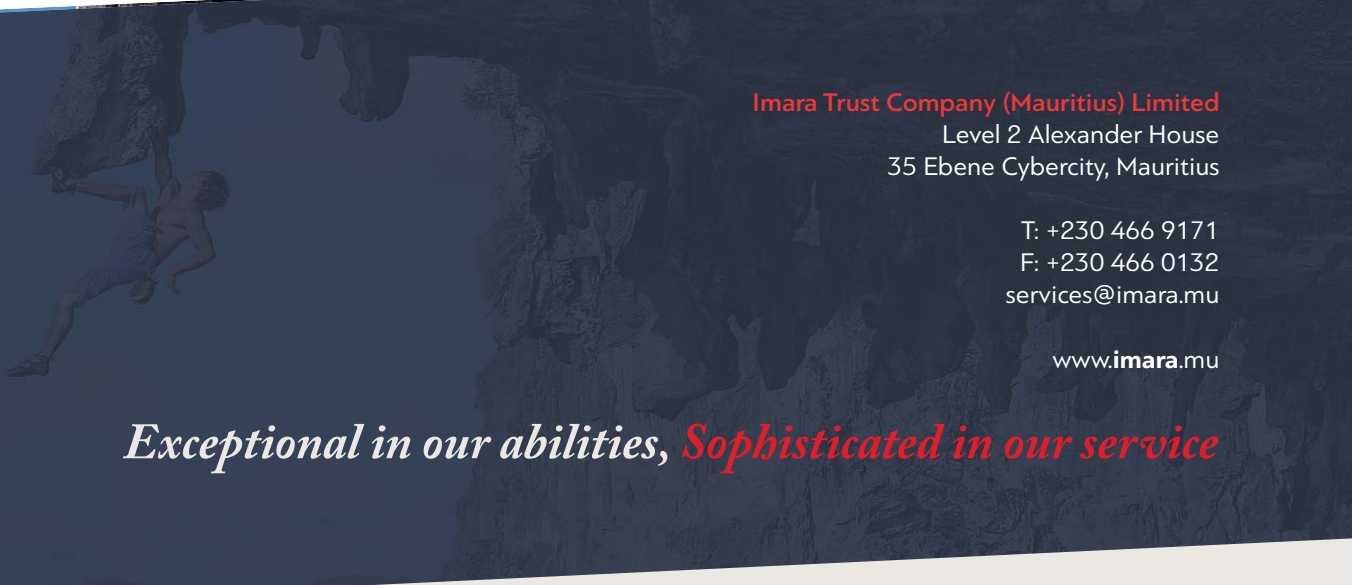
CONDITIONS ATTACHED TO THE ACQUISITION

An authorisation issued under the Non-citizens (Property Restriction) Act shall be subject to terms and conditions including:

- i. The non-citizen shall not use the apartment for any purposes other than those for which the authorization has been granted.
- ii. The non-citizen shall not transfer or dispose of the apartment without the authorisation and upon such conditions as may be imposed.
- iii. The non-citizen shall not engage in any property speculation whatsoever.
- iv. An authorisation shall be valid for a period of 6 months.
- v. Any non-citizen acquiring apartment(s) shall not be eligible to make an application for the status of resident in Mauritius.
- vi. The land duties and taxes shall be paid on the present market value of the immovable property, which may be subject to review by the Registrar General; and
- vii. The shares of the company (where applicable) are not in any manner disposed of without prior approval under the Non-Citizens (Property Restriction) Act.

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