

Securities Commission of The Bahamas

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PRESS RELEASE

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Securities Commission of the Bahamas Issues Statement of Practice on Physical Presence Standards

The Securities Commission of The Bahamas (“the Commission”) is pleased to announce the release of a ‘Statement of Practice on Physical Presence Standards’ which takes effect immediately. The Statement of Practice provides guidance on the physical presence standards for licensees and registrants under the Securities Industry Act, 1999, and is posted on the Commission’s website at www.scb.gov.bs.

Of particular note is the fact that the physical presence standards are flexible as they provide a Securities Investment Advisor firm with the option of meeting the general physical presence standards that require personnel and physical facilities or to meet their physical presence requirements by the appointment of a ‘Managing Representative’ who will be responsible for the administration of the registered firm.

A Securities Investment Advisor firm utilising a Managing Representative in The Bahamas, must have at least one of its executives registered with the Commission, but its executives do not have to reside in The Bahamas. In addition, the Managing Representative appointed must be either a registrant of the Commission, a licensee of the Central Bank of The Bahamas, or a licensee of the Inspector of Financial and Corporate Services Provider. The Managing Representative must be operating within The Bahamas and have the capacity, as well as managerial and technical resources and expertise, to act as a Managing Representative. However, the Securities Investment Advisor firm still has the responsibility of ensuring that all requirements under relevant legislation, and regulatory and supervisory standards, are met and maintained. Guidance on the various requirements relating to the Managing Representative, i.e. terms of the required agreement as well as record keeping requirements, are detailed in the Statement of Practice.

Speaking on the Statement of Practice, Philip Stubbs, Chairman of the Commission, said, “the Commission is of the view that this is a very positive development for the capital markets that will enhance business opportunities for new and existing industry participants”. He further commented that, “the development would be most beneficial to external asset managers desirous of registering as Securities Investment Advisors through the Managing Representative option”.

The Statement of Practice issued by the Commission is currently not legally enforceable. It is the Commission's intention however to make the Statement of Practice enforceable by approving it as a Guideline by June 2010. Until that time, the Commission advises that it will use the standards established in the Statement of Practice to assess new applications.

It is further intended that these standards will be applied to existing licensees. The Commission notes however that the potential impact of this Statement of Practice on existing registrants is expected to be negligible and advises its registrants and licensees to contact the Commission directly should they have concerns regarding the status of their license.

The Securities Commission of The Bahamas ("the Commission") is a statutory body established in 1995 pursuant to the Securities Board Act, 1995, which was repealed and replaced by the Securities Industry Act, 1999 (the SIA). The Commission is responsible for the administration of the SIA and the Investment Funds Act, 2003 (the IFA), which provides for the supervision and regulation of the activities of the investment funds, securities and capital markets. The Commission, having been appointed Inspector of Financial and Corporate Service Providers effective 1 January 2008, is also responsible for administering the Financial and Corporate Service Providers Act, 2000.

The Commission's mandate is to formulate principles to regulate and govern investment funds, securities and capital markets; maintain surveillance over investment funds, securities and capital markets ensuring orderly, fair and equitable dealings; create and promote conditions to ensure orderly growth and development of capital markets; and to advise the Minister of Finance regarding investment funds, securities and capital markets.

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