



# GFSR Industry Forum, June 2009

## Update from The Securities Commission of The Bahamas

Presented by  
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# Main Areas of Deficiencies

- Information Sharing Powers
- Sanctioning Powers
- Maintenance of Statistics
- SCB AML/CFT Guidelines
- Exemption to Licensed Funds from verification procedures.



# SCB Information Sharing Powers

## General Deficiencies:

- Legislative inability to:
  - ❑ share information on a domestic basis;
  - ❑ access records of licensees and registrants; and
  - ❑ conduct inquiries on behalf of foreign counterparts.

## Deficiencies Addressed:

- Amendments made in 2007 to the Securities Industry Act, 1999 (SIA, 1999) and Investment Fund Act, 2003 (IFA, 2003).



# SCB Sanctioning Powers

## General Deficiencies:

- SCB should have :
  - ❑ Enhanced Powers of sanction; and
  - ❑ Simplified process of applying sanctions.

## Deficiencies To Be Addressed:

- Draft Securities Industry Act and Regulations, 2009



# SCB Maintenance Statistics

## Deficiencies cited:

- The SCB should maintain statistics on:
  - ❑ FTRA Focused examinations; and
  - ❑ Sanctions applied for Non-Compliance with AML/CFT requirements.

## Deficiencies Addressed:

- The SCB's routine on-site examination program



# SCB AML/CFT Guidelines

## Deficiency cited:

- SCB AML/CFT Guidelines were not enforceable;
- SCB AML Guidelines were deficient in certain areas of content.



# SCB AML/CFT Guidelines

## ➤ Issue of Enforceability Addressed:

- ❑ Through the passage of the Securities Industry (Amendment) Act, 2008.
- ❑ SIAA, 2008 amends s. 94 of the SIA, 1999 and removes the previous language which made guidelines issued by the Commission unenforceable by law.



# SCB AML/CFT Guidelines

## ➤ Updated SCB AML/CFT Guidelines

- ❑ As a result of the most recent amendments S. 94 of the SIA, 1999, the SCB updated its the existing SCB AML/CFT Guidelines to reflect the SIAA,2009 amendment making guidelines enforceable.
- ❑ Some minor cosmetic corrections to the text of the SCB AML/CFT Guidelines.
- ❑ Updated Guidelines were approved by the Board on March 24, 2009





# SCB AML/CFT Guidelines

- **Issue of the deficiency in the 'content' of the SCB AML/CFT Guidelines.**
- ❑ The SCB will issue a new complete set of AML/CFT guidelines which will be compliant with the standards set by the FATF 40 + 9 recommendations.
- ❑ SCB AML/CFT Guidelines will be a stand alone document and will no longer be required to be read in conjunction with the CBOB AML/CFT Guidelines.



# Exemption under Reg. 5A (e) FTRR

- In the 2008 CFATF MER on The Bahamas, CFATF examiners cited Regulation 5A (e) FTRR as a deficiency noting the fact that **“The SCB does not have a system whereby exemption of investment funds is granted on the basis of a proven CDD by promoters.”**
- The examiners recommended that the SCB should implement a system whereby the exemption of investment funds is granted on the basis of proven Customer Due Diligence (CDD) by promoters.



# Exemption under Reg. 5A (e) FTTR

- SCB undertook a review of the exemption.
- Industry provided alternate background as to the basis for the existing exemption.
- It was clarified that the exemption was based on the need to accommodate the fluid nature of the investor profile of a fund and **NOT** on the fact that the promoter conducts the CDD.



# Exemption under Reg. 5A (e) FTTR

- Repeal vs. Maintain of Reg. 5A (e) FTTR .
- SCB Recommendation - that the Exemption under Reg. 5A (e) of the FTTR be maintained.
- SCB has provided its recommendation to the Ministry of Finance and is currently awaiting its decision.



Thank You!

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