

SECURITIES COMMISSION OF THE BAHAMAS

2010 INDUSTRY BRIEFING

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British Colonial Hilton
2/9/2010

Good afternoon. I welcome all of you to the fourth annual *Industry Briefing of the Securities Commission of The Bahamas*. It is good to have you – namely, our registrants and licensees; service providers to these constituents; members of the Commission who constitute our Board of directors; and the management and staff of the Commission. I look forward to your input and interaction during our question and answer session.

Each year we hold this event to ensure ongoing, open and relevant dialogue amongst all industry stakeholders and regulators. It is a place for us to provide you with necessary updates on our work, on developments in the industry at large, and a forum in which you can share your concerns and ideas for best practices and success in the financial services sector.

While nations and organizations continue to debate the causes and solutions to the economic crisis, including the regulators' role and function, our Bahamas keeps watch... tied to the global economy, and developing strategies to mitigate any further negative impact on our economy from the reduction in revenue from the tourism and financial services sectors.

There is concern about the viability and competitiveness of our financial services and the survival of our entities whose securities are traded in our local markets. In addition, at the international level, more focus is being directed toward offshore financial centres and their activities are being subjected to greater global regulation.

These pressure points are being factored into the strategic planning and operations of the Commission, with a view to understanding and proactively absorbing any related impact. I will speak more specifically on this topic in a moment. But, having highlighted the context in which the Commission is, and has been operating, I would like to bring you up to date on the work we set out to accomplish in 2009 and touch upon where we are headed for 2010.

Last year we presented to you our Statement of Priorities, which encompassed strategic goals that focused on four main areas. The goals established were purposefully ambitious and were intended to move the business capabilities of the Commission to a higher level. The goals were to:

- 1. Conduct an enterprise risk assessment** to identify major risks facing the Commission, especially as it related to the regulatory and enforcement frameworks;

2. **Enhance the overall efficiency of the Commission.** This was to assist the Commission in deploying its resources more efficiently. Projects were designed to streamline the processes for planning, reporting and measurement of progress; improve the database systems; improve the legislative and policy development processes; and to provide internal and industry training programs;
3. **Enhance the legislative framework of the Commission.** This goal involved finalizing the draft of the Securities Industry Regulations to accompany the draft Act, codifying amendments to the Investment Funds Act, and conducting a review of the Financial and Corporate Service Providers Act; and
4. **Enhance transparency in the operations of the Commission** based on our belief that transparent operations foster trust and confidence. The aim was toward clearly documenting policies, operating procedures and planning processes to directly support the transparency in the organization.

Although not fully achieving all of our goals, I am proud to report on a number of internal developments that have led to increased efficiencies, particularly with respect to improved financial reporting, upgrades to our internal database systems, and the IT infrastructure. Further, we were able to continue the improvement of our corporate governance practices by incorporating an internal audit function to support the processes and procedures of the Commission. These developments, together, have contributed to the **efficiency in the Commission's operations** on a day-to-day basis. They support the steps necessary to **enhance transparency** in the Commission's interaction with registrants, licensees and partners in the industry at large. For example, improvements to the database used to track applications are in place and will enable the Commission to follow the progress of applications and all supporting documentation. The result of this will be the ability to provide clear reports on the turn-around time and processing of complete applications.

Progress was also made toward enhancements **to the legislative framework**. These include completing amendments to the Investment Funds Act, 2003 (which have already been tabled in Parliament for debate at its next sitting), and finalizing the draft Securities Industry Act and related Regulations. Our Legal Counsel will elaborate further on these developments during her presentation.

I would like to talk a bit about the consultation process for the draft securities legislation.

As you may recall, the draft Securities Industry Act and Regulations were publicly available for consultation by the public and participants in the financial services sector. The Commission also launched a media campaign to engage as wide a range of persons as possible in the review of the legislation. This included radio and television appearances and a series of newspaper articles highlighting changes in the provisions of existing legislation and new ones. This process was productive. Feedback was received from a number of individuals and firms, and through various working groups). However, the process was not without its challenges; we had hoped for greater feedback but nonetheless we wish to thank those of you that participated in the review and commentary.

I am pleased to say that the final draft will be submitted to the Ministry of Finance during the coming week.

The next step in this process is the development of rules to accompany the suite of legislation and this process is well underway. We have engaged in consultancies to review the regulatory capital regime and the fee structure. These projects are both advancing and proposed rules for these and a number of other rules, including a take-over code and corporate governance guidelines, will be put forth for consultation shortly.

To update you on a related matter, the Commission has also signed on as a signatory B to the International Organization of Securities Commissions' (IOSCO) Multilateral Memorandum of Understanding (the MMoU9) on International Cooperation and the Sharing of Information. The MMoU is an agreement among IOSCO members for mutual cooperation and exchange of information to ensure compliance with securities laws and regulations. It is expected that the enactment of our new securities legislation, will place the jurisdiction in a position to be compliant with the full signatory 'A' standards.

Another element of the goal to **enhance the legislative framework** was to conduct a review of the Financial and Corporate Service Providers Act, 2000. While a formal review is not yet complete, several developments that impact licensees are taking place. Historically, the administration of the Financial and Corporate Service Providers Act has been limited to the application and renewal process for both individual and company licensees. There will be a change in the supervisory approach to include these licensees as part of the full regulatory oversight programme. This will entail, in addition to the existing review at application stage, both off-site and onsite monitoring for areas such as business conduct (for cause) and routine AML inspections. Further guidance on this matter will be communicated to licensees throughout the various department presentations that follow here today.

As I mentioned earlier, the goals we set for 2009 were ambitious, and from the achievements noted thus far, the Commission has made some strides. However, there are some projects that although not directly addressed, were indirectly dealt with through other initiatives. The first of these is the enterprise risk assessment. Although a project proposal was developed, we have not been able to commence this project due to financial constraints. However, several of the more pressing objectives were captured by the Commission's participation in a pre-Financial Sector Assessment Program (FSAP) that was undertaken by all of the financial services regulators. This assessment addresses the performance of a jurisdiction's financial sector regulatory framework against the elements of risk built into the core principles of supervising the individual segments of its financial sector. The Commission's assessment focused on its adherence to and application of the international standards of securities regulation; these standards are the IOSCO Objectives and Principles of Securities Regulation. In assessing ourselves against these standards, remedial actions are planned to eliminate gaps uncovered during the internal review. So, although we were not able to conduct a full enterprise risk assessment, much of the scope of the anticipated review is expected to be covered this year. The executive director will discuss this as a part of the operational plans for 2010.

Another matter of note is our movement towards consolidation of the three financial services regulators outside of the Central Bank – namely, the Securities Commission, the Insurance Commission and the Compliance Commission. This will initially result in one of the twin pillars of financial services regulation, the Financial Services Authority of The Bahamas. The other pillar, of course, is the Bank Supervision Department of the Central Bank. Much more detail will be provided in this regard shortly. We are however set to move forward and our strategic goals and action plans will become assimilated into the strategic plans of the consolidated regulator. The three regulators already work out of the same office premises and have commenced the sharing of certain administrative resources and infrastructure. Our policies, regulatory framework and the application of respective laws and regulations, where possible, will also be integrated to achieve the best and most functional results.

Naturally, then, having updated you on developments and our achievements during 2009, I turn now to the areas of emphasis and strategic direction for 2010 and just beyond. Notwithstanding the imminent consolidation of regulators, strategic plans for the regulation of the securities and capital markets have been developed, as they will form an integral part of a consolidated regulator. With these potential changes in context, a narrower planning term of three years was used to increase flexibility to adapt to operational and structural changes. Having established the three-year programme and identified required projects to complete those programmes, the Commission was faced with several priorities that will dominate its operations in 2010. These priority areas have been integrated into ongoing operations for the year. They

include the implementation of the new securities legislation, the remedial actions required as a result of the internal pre-FSAP review, changes to the database and other systems that support regulation, operations and executive management, and improvements to processes as a result of internal audits. These initiatives are expected to improve the skill sets of our people and thus ensure that regulatory enforcement is more effective and efficient. The executive director, following my remarks, will set out the details of the Operational Plans for 2010, which take into account the budgetary constraints and available human resources.

In concluding, I give emphasis to our mandate, which involves formulating principles to regulate and govern all aspects of the investment funds, securities and capital markets; maintaining surveillance over the markets to ensure orderly, fair, transparent and equitable dealings; and creating and promoting conditions to ensure the orderly growth and development of the securities and capital markets.

Although we face many challenges in fulfilling this mandate, we look forward to continuing to work with you, the industry, in advancing the sector. Through this partnership, we can achieve the goals necessary to grow our business. An example of this includes plans to partner with you to perform a comprehensive review of legislation such as the Investment Funds Act, 2003 and the Financial and Corporate Service Providers Act, 2000. The industry's assistance in this regard is critical bearing in mind the Commission's limited resources of people and finances. There is expected to be further dialogue with you shortly by the Commission's management on this.

We also call on you to bear in mind your end of the bargain, by ensuring that your institutions stay abreast of existing regulation and legislation; and new developments. This type of two-way relationship enables us to accrue reciprocal benefits derived from having a regulator that can be responsive to industry needs and conduct supervision of the markets with efficiency of resources.

And now, to shed additional light on additional forward movements, today's presenters, including the Commission's executive director, Mr. Hillary Deveaux, and the various Heads of Departments at the Commission, will address you with updates on their areas of specialty.

I thank you for your time and look forward to your contribution at today's Industry Briefing. Thank you, once again, and good afternoon.