



# RESHAPING THE REGULATORY REGIME: OVERHAUL OF THE IFA & OTHER LEGISLATIVE INITIATIVES

Wednesday 14 June 2017

11:00am – 11:30am

British Colonial Hilton, Nassau, The Bahamas

**Presenter: Ms. Christina R. Rolle Executive Director**



Property of the Securities Commission of The Bahamas



# Presentation Outline

- Overhaul of the Investment Funds Act, 2003
- Overhaul of the Financial & Corporate Service Providers Act, 2000
- Recent and pending legislation
  - Securities Industry (Amendment) Act, 2016
  - Securities Industry (Disciplinary Proceedings) (Hearings and Settlements) Rules, 2017
  - Money Lenders' Rules
  - Business Capital Rules
  - Compliance Officer Rules



# Presentation Outline

- **SCB policy updates**
  - Minimum education requirements
  - Assessment of automatic administrative penalties
  - Filing of audited financial statements
  - Unpublished policies approved by the Commission
  
- **Questions**



# Overhaul of the Investment Funds Act

- **IMF's FSAP Review, 2012**
  - Largely compliant with IOSCO Standards
  - Investment funds regime weak
- **Other Factors**
  - Appropriate framework to facilitate Institutional Funds Business
  - Improve competitiveness
  - Facilitate AIFMD/EU passporting



# Overhaul of the Investment Funds Act

- Key Features Being Proposed
  - Provide regulatory oversight of Investment Managers and Custodians
  - Realign fiduciary risk and responsibilities as appropriate
  - Rationalise the criteria which would establish the basis for Bahamas and Non-Bahamas based fund
  - Rationalise the master/feeder regulatory regime
  - Establish EU pass-porting regime
  - Audit sign off to be local
  - Facilitate register of “approved persons”



# Overhaul of the FCSPA, 2000

- **Challenges of prevailing legislation**
  - Danger of unregulated activity and resultant jurisdictional reputational risk
  - Entry of new participants and new business streams in the financial or corporate services industry requiring greater oversight and regulation (Fit and Proper)
- **New FCSPA legislative goals**
  - Enhance consumer protection
  - Improved administrative and regulatory oversight of participants in the industry
  - Comprehensive overhaul to reflect the growth of the industry and expand the Inspector's regulatory powers



# Overhaul of the FCSPA, 2000

## Interim Measures

### ➤ FCSP (Amendment) Bill

- Introduce relevant definitions for various financial and corporate services activities
- Empower the Inspector to make regulatory rules, orders and guidelines

### ➤ FCSP (Money Lenders Rules)

- Introduce new regulations for non-bank money lending activities



# Overhaul of the FCSPA, 2000

## Other Developments

- **IBC (Accounting Records Order), 2016 (Oct. 28)**
  - Requires that a declaration of availability of accounting records be kept at company's registered office
  - Relevant to FCSPs providing corporate services to IBC's and Bahamian companies
  
- **New Management of Accounting Records Guidelines**
  - Pending review





# Recent Legislation

## Securities Industry (Amendment) Act, 2016

- Enhanced the Commission's powers to:
  - Conduct investigations
  - Cause regulatory hearings to be held
  - Impose sanctions (section 133A)
  
- Expressly authorises the Commission to seek the assistance of the Commissioner of Police in exercising its power to obtain information for investigations (section 43)



# Recent Legislation

## Securities Industry (Disciplinary Proceedings) (Hearings and Settlements) Rules, 2017

- Preliminary complaints
- Investigative procedures
- Hearing Panel process
- Procedures to issue a formal complaint and answer
- Disclosures/evidence
- Pre-hearing conference, hearings and settlements
- Commenced 7 February 2017



# Business Capital Rules

## Securities Industry (Business Capital) Rules, 2017

- Challenge: SME access to capital markets funding
- Objective: To allow entrepreneurs to raise up to:
  - \$1,000,000 through crowdfunding
  - \$3,000,000 through SME financing (annually)



# Compliance Officers Rules

- Draft Rules with OAG for approval
- Once approved, SCB Chairman signs off
- Rules proposed to address:
  - Physical presence requirements
  - Seniority and independence requirements
  - Conflicts of interest
  - Outsourcing



# Other Developments

- Whistleblower Rules
- Takeover Code
- Corporate Governance Rules



# SCB policy changes

## Assessment of Automatic Administrative Penalties

### ➤ Rationale:

To foster timely submission of information and documents required by the Commission

### ➤ Key feature:

Automatic levy of penalties for outstanding documents in relation to certain statutory obligations, including financial and material change reporting



# SCB policy changes

## Filing of Audited Financial Statements

- Rationale: To foster timely submission of audited financial statements
- Key features:
  - Automatic levy of penalties for late filing.
  - Procedure on applying for extension to filing deadline
- Published 17 February 2017



# SCB policy changes

## Minimum Education Requirements

- Updates the Commission's list of recognised examinations for registered persons.
- Key changes include:
  - Additional qualifying examinations
  - Examinations categorised by registration type of individual
  - Inclusion of recognised examinations for MLROs
- Published 23 January 2017





# Unpublished Policies Approved By the Commission

- Failure to file annual renewal of professional indemnity insurance
- Due diligence refresher policy
- Regulatory capital calculation for discretionary and advisory firms
- Proposed framework for the downgrade and reclassification of an Unrestricted Investment Fund Administrator License

# QUESTIONS & ANSWERS





# CONTACT INFORMATION

## **Securities Commission of The Bahamas**

3rd Floor, Charlotte House  
Shirley and Charlotte Streets  
P.O. Box N-8347  
Nassau, The Bahamas

Telephone	1-(242) 397-4100 (Nassau) 1-(242)-225-8171 (Family Island toll free) 1-(360)-450-0981 (International)
Fax	1-(242) 356-7530
Email	<a href="mailto:info@scb.gov.bs">info@scb.gov.bs</a>





# THANK YOU

