

Securities Commission of The Bahamas

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PRESS RELEASE

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Securities Commission Reports Growth in Securities and Investment Funds Sectors at Industry Briefing

The investment funds industry experienced significant growth in the number of licensed and registered funds operating in or from The Bahamas in 2013. There was a 15.5 percent increase, from 652 at the end of 2012 to 753 at 31 December 2013.

Mrs Tonya Bastian Galanis, the Chairman of the Securities Commission of The Bahamas (the Commission) brought the news during her welcome address to attendees of the annual Industry Briefing for persons regulated by the Securities Industry Act, 2011 (SIA) and the Investment Funds Act, 2003 (IFA), and related stakeholders. The Briefing was held on Wednesday 25 June 2014 at the British Colonial Hilton Nassau.

Bastian Galanis told attendees that 2013's growth was the first annual yearend increase in registered and licensed investment funds since 31 December 2008, and that statistics indicate this growth continued into 2014.

"By the end of May [2014], there were 769 licensed or registered investment funds," the Chairman said. "We hope that this marks the beginning of a new trend of expansion in this sector."

Bastian Galanis reported that the number of registered firms under the SIA increased by 6.3 percent, from 128 at yearend 2012 to 136 at 31 December 2013. The number of individuals registered under the SIA also grew over the same period, from 471 to 613, or 30.1 percent.

In opening the Briefing, Minister of State for Finance, the Hon. Michael Halkitis said the sector's expansion has had a positive impact on overall employment in the financial services sector.

"The growth in activity in the securities and investment funds sectors has, to some extent, offset the adverse impact on employment in the financial services sector resulting from the downsizing of other financial institutions, due to the outsourcing of operational activities to entities in other jurisdictions," the Minister said.

The Minister also commended the private/public partnership that has been working on the development of the Investment Condominium (ICON). The ICON is an innovative fund structuring vehicle soon to be incorporated into the legal framework. He recognised the Ministry of Financial Services, The Bahamas Financial Services Board and the Securities Commission for their collaboration on the project.

In addition to a statistical overview of registrants and licensees, Bastian Galanis provided updates on various legislative and regulatory matters. Amongst them, attendees were told the Investment Funds Act Technical Team (IFATT) appointed by the Commission to review the IFA had submitted its Report, which recommends the Act's repeal and replacement. Bastian Galanis said the Report is under review and thanked the Team, co-chaired by Samantha Knowles-Pratt of Delaney Partners and Michelle Neville-Clarke of Lennox Paton & Co, for its work.

The Chairman also apprised attendees on the Commission's progress regarding the European Union's Alternative Investment Fund Managers Directive (AIFMD). Under the Directive, securities regulators must meet various requirements and targets in order for their jurisdictions' fund managers to continue to market or perform fund management activities for alternative investment funds in European Economic Area (EEA) markets.

The Commission executed Memoranda of Understanding (MoUs) with 21 counterpart regulators in the EEA by the first-phase target of July 2013. Two more of the bi-lateral agreements were executed in 2013, and the Commission is seeking to conclude arrangements with the securities regulators in the remaining EEA jurisdictions (France, Germany, Spain, Italy, Cyprus, Austria, Slovenia and Croatia) this year.

Bastian Galanis updated attendees on the status of the proposed "Securities Industry Disciplinary (Hearings and Settlements) Rules". The proposed Rules establish a Hearing Panel and the procedures and processes by which disciplinary matters will be addressed pursuant to the SIA. The Chairman said the Rules aim to efficiently and effectively address alleged breaches of securities laws (under both the SIA and the IFA) while ensuring that principles of natural justice are maintained.

The draft Rules and consequential amendments to the SIA are out for public consultation until 9 July 2014, and attendees were encouraged to participate in the consultation process. The documents are available on the Commission's website (www.scb.gov.bs) for review and comment.

The senior managers of the Commission's regulatory departments gave an overview of activities in their areas and highlighted key observations arising from the Commission's surveillance of the industry. The presenters were: Mrs. Omara Bingham, Authorisations Manager; Mrs. Velma Miller, Market Surveillance Manager and Ms. Altermize Missick, Inspections Deputy Manager.

Amongst other things, Bingham provided some details on the growth in the number of investment funds. She said that underlying 2013's expansion was an increase in the number of Specific Mandate Alternative Regulatory Test (SMART) Funds, by 107 or 32.8 percent, from 326 at yearend 2012 to 433 at yearend 2013.

Miller provided an overview of the ongoing obligations of registrants and licensees under the SIA and the IFA. She also spoke to the ongoing reporting obligations of Public Issuers.

The Market Surveillance Manager said that under the SIA, Public Issuers are obliged to send their annual financial statements and auditors' reports, interim financial statements, annual reports and any other prescribed reports or documents to each of their shareholders at the address on their securities registers. The requirement does not apply if the shareholder has informed the issuer that he or she does not wish to receive the documents.

Miller also spoke to the requirements for Initial Public Offerings (IPOs) with regard to the distribution of securities. Public Issuers, she said, must file a preliminary prospectus and a prospectus with the Commission prior to the distribution of any security.

Closing out the Commission's presentations, Altermize Missick, Manager in the Commission's Inspections Department, provided an overview of the inspections programme and common on-site inspections findings.

Missick also explained the process for joint inspections conducted with the Central Bank of The Bahamas, which applies in cases where banks and trust companies fall under the regulation of both the Commission and the Central Bank. Missick said the process is governed by a 'Joint Protocol', which streamlines the inspection process for jointly regulated financial institutions by coordinating the planning and execution of inspections, reporting of findings, and follow-up and enforcement activities.

The presentations were followed by a question-and-answer session.

The Securities Commission of The Bahamas (“the Commission”) is a statutory body established in 1995 pursuant to the Securities Board Act, 1995. That Act has since been repealed and replaced by new legislation. The Commission’s mandate is now defined in the Securities Industry Act, 2011 (SIA, 2011). The Commission is responsible for the administration of the SIA, 2011 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 Services effective 1 January 2008, is also responsible for administering the Financial and Corporate Service Providers Act, 2000.

The Commission is mandated to: advise the Minister on all matters relating to the capital markets and its participants; maintain surveillance over the capital markets and ensure orderly, fair and equitable dealings in securities; foster timely, accurate, fair and efficient disclosure of information to the investing public and the capital markets; protect the integrity of the capital markets against any abuses arising from financial crime, market misconduct and other unfair and improper practices; promote an understanding by the public of the capital markets and its participants and the benefits, risks, and liabilities associated with investing; create and promote conditions that facilitate the orderly development of the capital markets; and perform any other function conferred or imposed on it by securities laws or Parliament.



The Securities Commission of The Bahamas hosted an Industry Briefing for registrant and licensees under Securities Industry Act and Investment Funds Act at the British Colonial Hilton Nassau hotel, 25 June 2014.