



AIBT REGULATOR'S FORUM

Wednesday 7 June 2017
2:00 pm – 5:30 pm
The Grand Hyatt, BahaMar

Presenter: Ms. Christina R. Rolle Executive Director



Property of the Securities Commission of The Bahamas



PRESENTATION OUTLINE

- International Developments for the Securities Industry
 - IOSCO EMMOU
 - Update to IOSCO Principles and Methodology

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 - Unpublished policies approved by the Commission

- Recent legislation
 - Securities Industry (Amendment) Act, 2016
 - Securities Industry (Disciplinary Proceedings) (Hearings and Settlements) Rules, 2017



PRESENTATION OUTLINE

- Legislative Developments
 - Overhaul of the Investment Funds Act
 - Financial and Corporate Service Providers Act
 - Money Lenders' Rules
 - Business Capital Rules
 - Compliance Officer Rules

- Other developments
 - Whistleblower Rules
 - Takeover Code
 - Corporate Governance Rules



EMMoU

- ❑ Current MMoU established in 2002
- ❑ Int'l benchmark for cross-border cooperation
- ❑ Common understanding on consultation, cooperation and information exchange
- ❑ Vital tool for combating cross-border fraud and misconduct
- ❑ Changing environment/advancements in technology drove need for further standard
- ❑ IOSCO seeks to usher in a new era of improved international enforcement cooperation



EMMoU

- ❑ Key new EMMoU powers “ACFIT”
 - To obtain and share **A**udit papers
 - To **C**ompel attendance for testimony
 - To assist and provide information to another regulator on how to **F**reeze assets
 - To Obtain and share existing **I**nternet Service Provider records
 - To Obtain and share existing **T**elephone records
- ❑ ACFIT powers to enable securities regulators to respond to risks and challenges posed by globalization and advances in technology
- ❑ IOSCO Board discussing potential arrangements for implementation
- ❑ EMMoU to co-exist with MMoU



Update to IOSCO principles and methodology

- Principle 6 - regulators' obliged to 'identify' systemic risk;
- Principle 38 - requirement for regulation of Securities Settlement Systems and Central counterparties to ensure fairness, effectiveness and efficiency and reduction of systemic risk now also applied to Central Securities depositories and trade repositories.



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

Minimum Education Requirements

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



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



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



Recent Legislation

Securities Industry (Amendment) Act, 2016

- ❑ Enhanced the Commission's Enforcement powers to:
 - ❑ Conduct investigations
 - ❑ Cause regulatory hearings to be held
 - ❑ Impose sanctions (section 133A)
- ❑ Expressly authorizes 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.



Legislative Developments: IFA

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



Legislative Developments

KEY FEATURES OF THE DRAFT BILL

- 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
- Facilitate register of “approved persons”



Financial and Corporate Services

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

- Improved administrative and regulatory oversight of participants in the industry and protection of consumers
- Comprehensive overhaul of legislation to reflect the growth of the industry and expand the Inspector's regulatory powers since last amended in 2009



Financial and Corporate Services

Interim Measures (Pending enactment of new FCSPA legislative regime)

- **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



Financial and Corporate Services

Other Developments impacting FCSP regime

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



Financial and Corporate Services

IBC (Accounting Records Order), 2016

Effective: 21 October 2016

Requires that a declaration of availability of accounting records be kept at company's registered office.

- Management of Accounting Records Guidelines currently under review.



Business Capital Rules

Challenge: SME access to capital markets funding

Answer: business capital rules

(crowdfunding, financing)

Objective: To allow entrepreneurs to raise \$1,000,000 through crowdfunding and up to \$3,000,000 through SME financing (annually).



Compliance Officers Rules

- Draft Rules with OAG for approval
- Once approved will be signed in by Chair of the Commission
- Rules proposed to address –
 - Physical Presence Requirements;
 - Seniority and Independence Requirements;
 - Conflicts of Interest
 - Outsourcing



Other Developments

- ❑ Whistleblower Rules
- ❑ Takeover Code
- ❑ Corporate Governance Rules

QUESTIONS & ANSWERS





CONTACT INFORMATION

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THANK YOU

