

**Securities Commission of The Bahamas**

**3<sup>RD</sup> Floor, Charlotte House  
Shirley & Charlotte Streets  
P.O. Box N – 8347  
Nassau, Bahamas**

## **PRESS RELEASE**

**Contact: Mr. Dave Smith  
242- 397-4100**

**FOR IMMEDIATE RELEASE**

### **SCB Hosts FCSP Briefings in Nassau and Freeport**

The Securities Commission of The Bahamas (SCB) recently hosted over 200 Financial and Corporate Service Provider (FCSP) representatives and other stakeholders for dialogue on the direction of the regulatory landscape.

In its capacity as the Inspector of Corporate and Financial Services (the Inspector), the SCB held the Industry Briefings on September 19th at the British Colonial Hilton in Nassau, and on September 13th at Pelican Bay Hotel in Freeport, Grand Bahama. The SCB says the Briefings are one of the avenues being used to strengthen its relationship with the industry, clarify expectations of registrants, and reinforce its transparency and communication efforts.

SCB Executive Director Dave S. Smith said that since the Commission was appointed the Inspector, the SCB continues its work to rectify a number of legacy issues impacting FCSPs, ranging from delinquent fees to ambiguity in the governing regulations.

Representing the Commission's Inspections Department, Robertha Davis told participants the SCB was moving to a Risk Based Approach (RBA) to determining the frequency and depth of on-site inspections. Davis said the SCB would also move away from the use of accountants as 'Inspector's Agents' for on-site inspections of FCSPs, commencing in 2014. The agents were previously used to assist with assessing the appropriateness of the Know Your Client (KYC) procedures and processes at FCSP registrants—at the expense of the FCSP being inspected.

Smith said the considered move to take the inspection in-house was the responsible and prudent course for the Regulator. Coupled with the RBA, he said it was envisioned to reduce the regulatory burden on the Inspector while providing more meaningful supervision of the KYC processes in place for registrants.

Smith said he believed the many businesses falling under the financial service definition would also welcome the savings from having the Commission conduct the inspections itself.

A survey has been issued by the Commission which will help to determine the risk inherent in specific Financial and Corporate Service Providers (FCSP) businesses, which Davis said FCSPs should complete as early as possible.

Accountants were used as Inspector's Agents since the promulgation of the FCSPA in 2000. The SCB was appointed the Inspector on 1 January 2008.

Participants also heard from the SCB that it would be inspecting FCSP business conducted by attorneys, as it does currently with other registrants.

Mechelle Martinborough, SCB Legal Counsel, said that a legal challenge to the constitutionality of the Financial and Corporate Service Providers Act, 2000 had been raised shortly after its promulgation, related to the matter of legal 'privilege'. According to the Legal Counsel, the determination was based on the Inspector's legal obligations, and the fact that the challenge to the constitutionality of the legislation had stalled.

Martinborough also clarified requirements regarding the maintenance of client records. An Organisation for Economic Co-operation and Development (OECD) 'Peer Review' report of The Bahamas released in November 2010 found record keeping requirements relating to certain sectors of the financial industry to be deficient.

Martinborough told FCSPS that, subsequent to the passing of amendments to a number of financial service related legislation in 2011, financial records must be maintained and must be reliable, reasonably accurate, and show, among other things, money received and expended and the assets and liabilities of the entity. The records must allow an assessment of the financial status of the entity and the generation of financial statements, although the amendments do not require the preparation of audited financial statements.

Martinborough also reviewed the consultative process the Commission uses in developing legislation, regulations, rules and guidelines governing the industries under its regulatory responsibility. She highlighted the potential impact the industry has on the regulatory environment by engaged participation throughout the consultative process.

As an example of this influence, a number of proposed fees for the industry are being revised downward or eliminated, based on the feedback received from the initial consultation paper on the proposed fees, issued in May. Martinborough presented reduced fee schedule proposals the SCB is now considering.

Representing the SCB's authorizations department, Senior Officer Sherinn Munnings said the determination of which financial service activities fall under the regulatory ambit of the SCB has been clarified. Services like money lending, financial leasing, payday and cash advance, money broking, mortgage broking and escrow services were given as examples of the activities which are regulated by the Inspector. Munnings said the definition of financial service being used by the Commission was informed by the definition adopted by the World Trade Organisation.

The SCB released a public notice giving more details about the financial services business that it regulates on 28 August. The Notice is available on the Commission's website ([www.scb.gov.bs](http://www.scb.gov.bs)).

The SCB's service delivery standard for processing FCSP applications was also described by Munnings. The SCB is targeting acknowledgement of receipt of an application within three days, and a response on whether the application was approved or declined, with any conditions placed on an approval, within 40

days. Applications that are complete in all material respects may be processed in as little as 10 days, Munnings said.

Munnings also told audiences that the SCB is working to revise application forms to make them more user-friendly.

Kaylisa Adderley of the SCB's Market Surveillance Department advised of the continuing obligations for FCSPs covering renewal of licences, material change reporting and compliance measures. She emphasized the importance of keeping the Inspector informed about developments with the business operations. Provision of statistical data would assist the Inspector in improving the regulatory framework and thereby promote balanced regulation and market development.

Smith added that the SCB was pleased that so many had demonstrated keen interest in the Briefings, with around 180 availing themselves of the dialogue opportunity in Nassau, and another 30 in Grand Bahama.

The Executive Director emphasized that the Briefing was designed to not only inform industry of the various considerations the Commission was undertaking, but to emphasize the high value the Commission places on communication, cooperation and collaboration in shaping the regulatory landscape.

The SCB said that it would undertake the process of generating proposed legislation to repeal and replace the FCSPA, 2000 during 2013.

**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's 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  
3rd Floor, Charlotte House  
Charlotte Street  
P.O. Box N- 8347  
By fax to: (242) 356-6291/2  
By email to: [info@scb.gov.bs](mailto:info@scb.gov.bs)  
Website: [www.scb.gov.bs](http://www.scb.gov.bs)**