



INDUSTRY BRIEFING

SECURITIES INDUSTRY ACT, 2011 (SIA, 2011) & INVESTMENT FUNDS ACT, 2003 (IFA, 2003)

Wednesday 25th June 2014 at the British Colonial Hilton, New Providence



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AUTHORISATIONS DEPARTMENT UPDATES

Securities Industry Act, 2011 and Investment Funds Act, 2003

- Licensing Activity
- SIA Re-Categorisation Process Update
- Application and Licensing Process
- Common Deficiencies in Applications
- Planned Initiatives for 2014



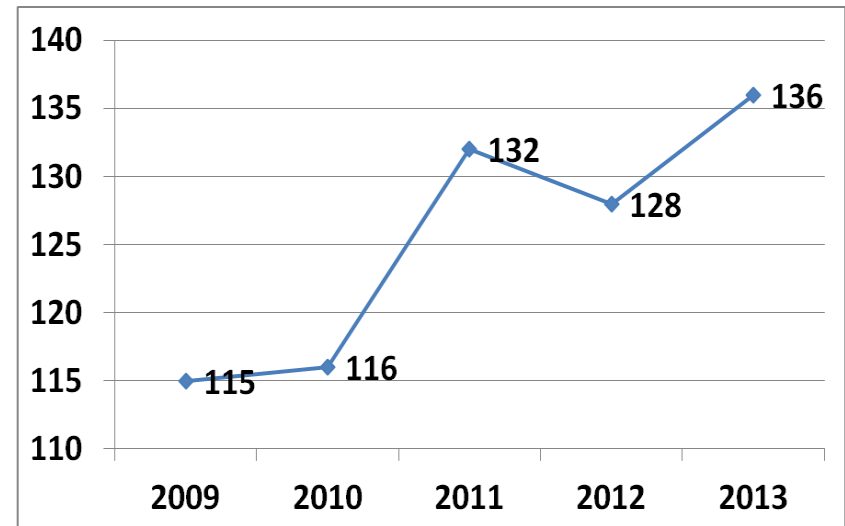
Presenter: Omara Bingham, Manager
Authorisations Department

Licensing Activity – SIA Firms

Table 1 – Total No. of Firms Approved during 2013

REGISTRATION CATEGORY	2013
Managing Securities only	6
Advising on Securities only	0
Dealing as Principal or Agent and Arranging Deals in Securities	1
Dealing as Agent and Arranging Deals in Securities	1
Arranging Deals in Securities, and Managing in Securities	0
Managing and Advising on Securities	3
Dealing as Agent, Managing and Advising on Securities	0
Arranging Deals in Securities, Managing and Advising on Securities	1
Dealing as Agent, Arranging Deals in Securities, Managing and Advising on Securities	1
Dealing as Principal or Agent, Arranging Deals in Securities, Managing and Advising on Securities	1
Clearing Facilities	0
Market Places	0
TOTAL	14

Table 2 – Year-over-Year Comparisons - Total No. of Registered Firms

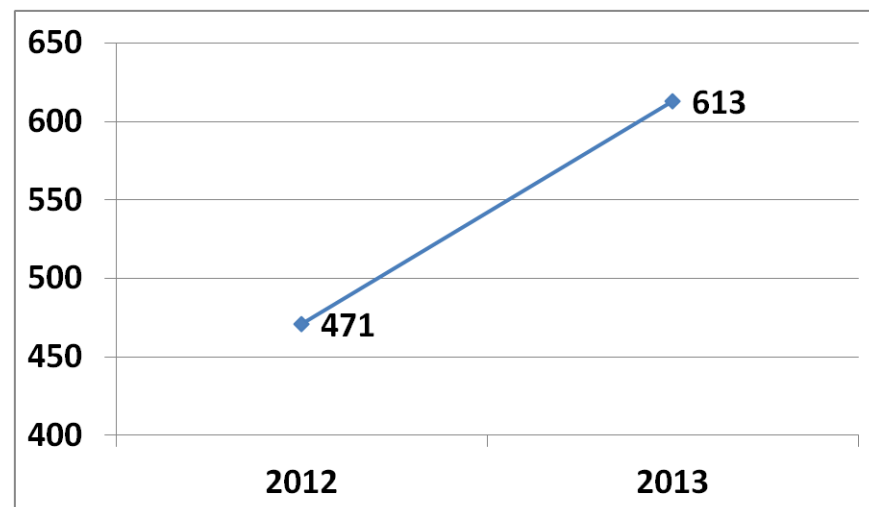


Licensing Activity – SIA Individuals

Table 3 – Total No. of Individuals Approved during 2013

REGISTRATION CATERGORY	2013
Representative – Trading	12
Representative – Discretionary Management	10
Representative – Advising	49
CEO and Representative – Trading	2
CEO and Representative – Discretionary Management	8
CEO and Representative – Advising	1
Representative – Trading and Discretionary Management	5
Representative - Trading and Advising	3
Representative -Discretionary Management and Advising	26
CEO Representative - Discretionary Management and Advising	3
Representative – Trading, Discretionary Management and Advising	5
CEO	11
Compliance Officer	47
TOTAL	182

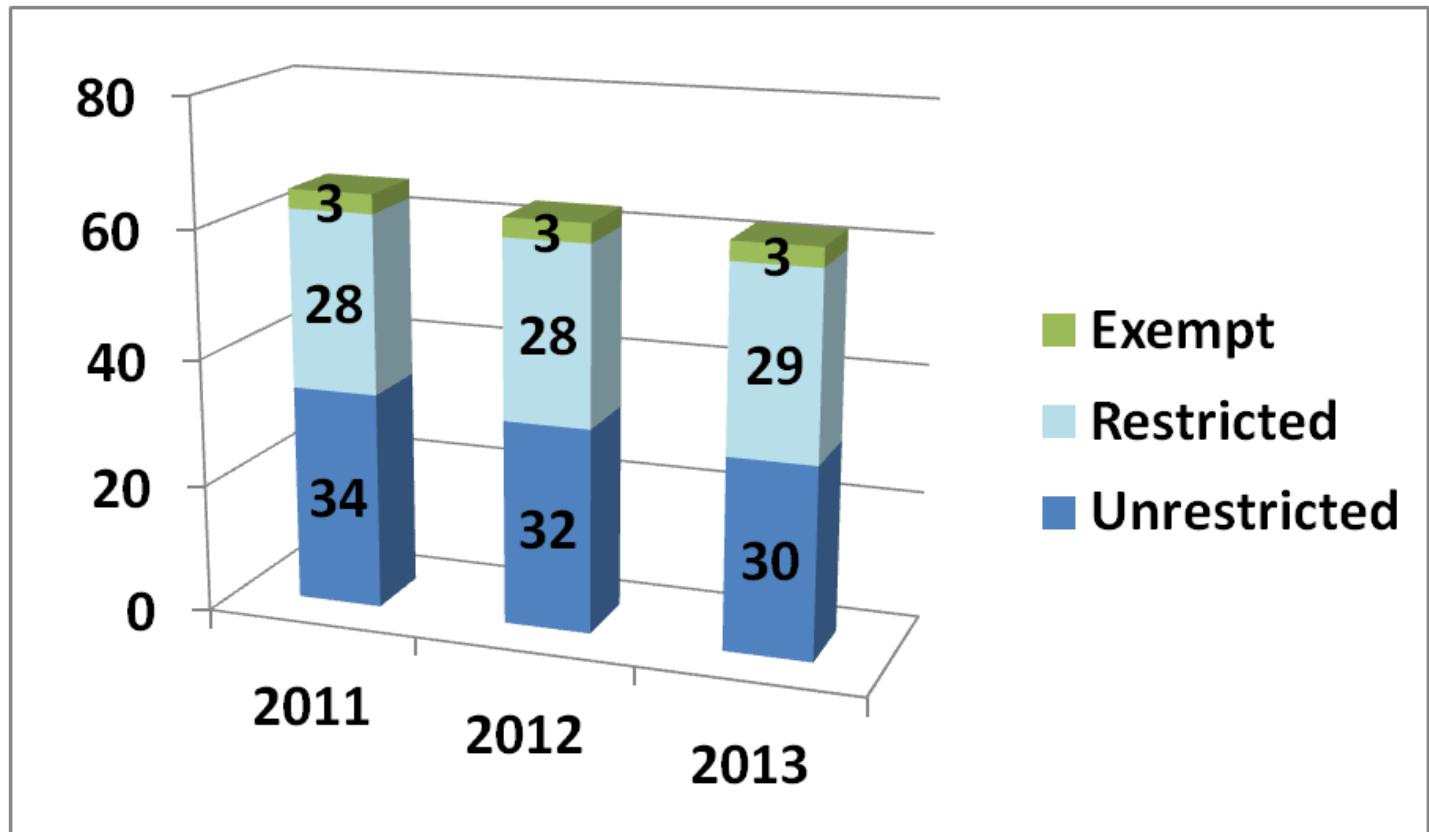
Table 4 – Year-over-Year Comparisons Total No. of Registered Individuals





Licensing Activity – Investment Fund Administrators

Table 5 – Total No. of Investment Fund Administrators by
Category and Year-over-Year Comparisons



Licensing Activity – Investment Funds

Table 6 – Total No. of Licensed/Registered Investment Funds at 31 December 2013

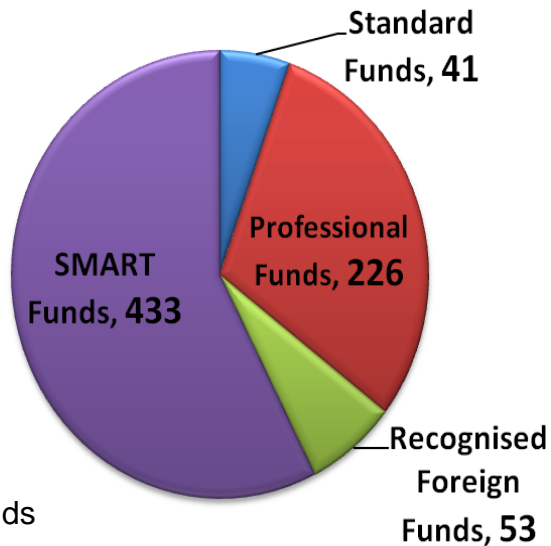
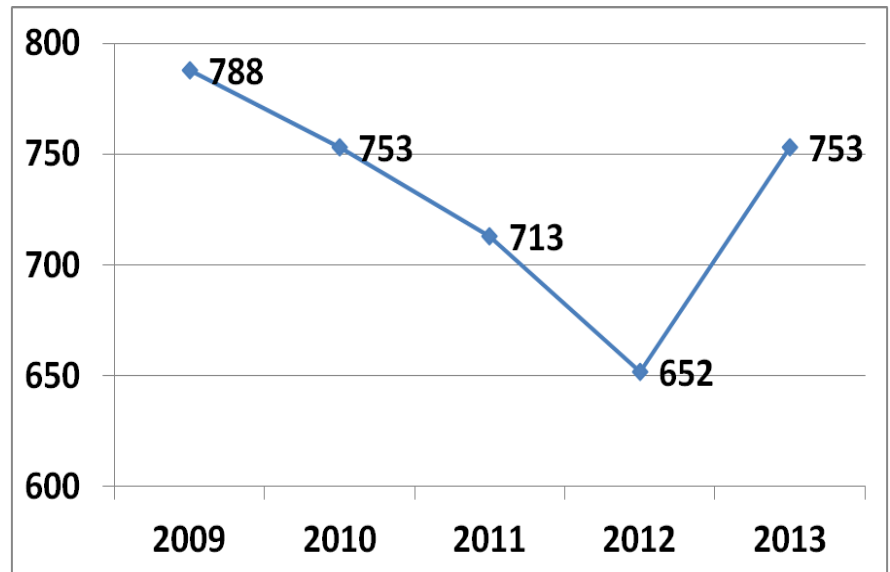


Table 7 – Year-over-Year Comparisons Total No. of Licensed/Registered Investment Funds





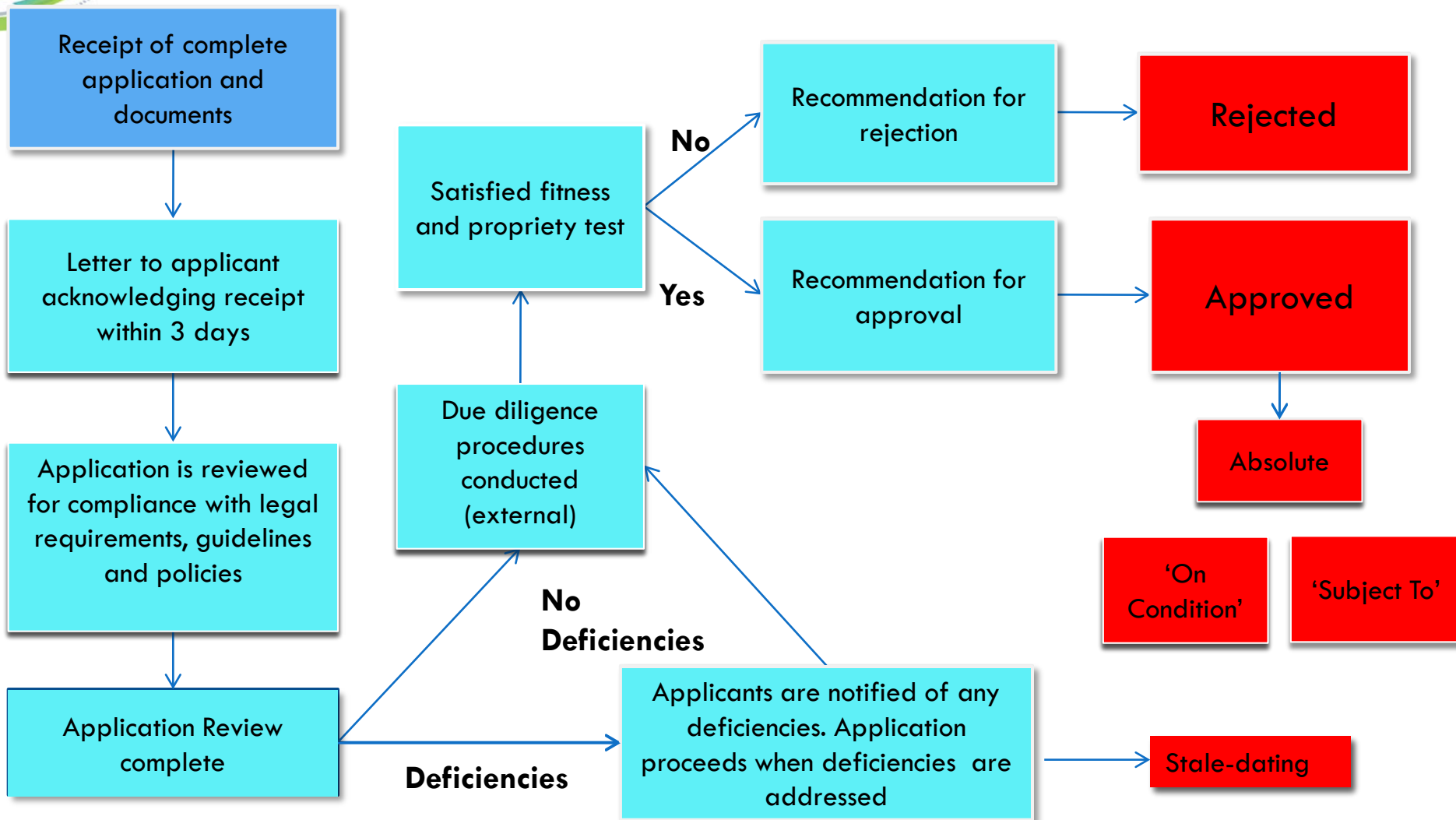
SIA, 2011 Re-Categorisation Process: Firms & Individuals

SECURITIES INDUSTRY ACT, 1999	SECURITIES INDUSTRY ACT, 2011
BROKER DEALER CLASS I	Dealing in Securities as Principal and/or Agent ; Managing Securities; Arranging Deals in Securities; and Advising on Securities.
BROKER DEALER CLASS II	Dealing in Securities as Agent Only ; Managing Securities; Arranging Deals in Securities; and Advising on Securities.
SECURITIES INVESTMENT ADVISOR	Managing Securities, and Advising on Securities.

SECURITIES INDUSTRY ACT, 1999	SECURITIES INDUSTRY ACT, 2011
PRINCIPAL, BROKER, STOCKBROKER	Representative, Trading
SECURITIES INVESTMENT ADVISOR	Representative, Discretionary Management
ASSOCIATED PERSON	Representative, Advising



The Application Process





Common Deficiencies in the Application Process: SIA & IFA

- ❑ Incomplete KYC/ Due Diligence Information for Individuals associated with the application. E.g. Directors, Officers, Shareholders
- ❑ Evidence of Professional Qualifications
- ❑ Inadequate AML and Internal Control Procedures
- ❑ Failure to submit application fee along with application



Planned Initiatives

- ❑ Development of Licensing Specific Guidelines
- ❑ Improvements to Application Forms
- ❑ Introduction of Application Checklists



MARKET SURVEILLANCE UPDATES

Securities Industry Act, 2011 and Investment Funds Act, 2003

- Ongoing Obligations
- Annual and Administrative Fees
- E-filing Facility



Presenter: Velma S. Miller, Manager

Market Surveillance Department



Ongoing Obligations – Administrators and Registered Firms

STANDING RENEWAL OF LICENCE		IFA	SIA
• Fees	Payment Annually – by January 31	Section 36	Regulation 45
• Annual Declaration/Information Form	File Annually	Section 27(1)(a)	Regulation 45
FINANCIAL REPORTING			
• Audited Financial Statements	Within 120 days of fiscal year end	Section 42	Section 77
• Capital Requirement	Ongoing	Section 37(1)	Regulation 42
INDEMNITY INSURANCE		Ongoing	Regulation 14
MATERIAL CHANGE REPORTING			
• Change in principal office, registered office, or any individual acting as its agent	Within 14 days of any change	Section 33(3)	NA
• Occurrence of any business in contravention to the Act or other applicable legislation	Immediately	Section 39	Regulations 53
• Fund is operating prejudicial to investors or creditors	Immediately	Section 39	NA
• Change in Directorship	Immediately	Section 44	NA
• Change in Transfer or disposal of shares	Immediately	Section 40	Regulations 46
TERMINATION OF ADMINISTRATION		30 days prior to the date of termination	Section 21
FILING STATISTICAL INFORMATION (for Funds administered)		Every 6 months: June 30 & December 31	Section 51





Ongoing Obligations – Public Issuers

FINANCIAL REPORTING		
• Audited Financial Statements	Within 120 days of fiscal year end	Section 101
• Interim Financial Statements	Within 45 days of the quarter end	Section 101(5)
• Annual Report	Within 120 days of fiscal year end	Section 101(6)
• Management Discussion and Analysis	Filed concurrent with audited statements	Section 101(6b)
MATERIAL CHANGE REPORTING		
• Any information relating to the business, operations or securities of an issuer that would reasonably be expected to significantly affect the value or market price of the issuer or a security of an issuer	Immediately	Section 99
• Change of Auditor	Within 10 days of the change	Regulation 15
INITIAL PUBLIC OFFERING		
• Preliminary Prospectus/Prospectus	Prior to any distribution	Section 83
INSIDER REPORTING		
• Insider Report	No later than 5 days after event	Section 128 (1)





Ongoing Obligations (IFA & SIA) – Concerning Trends

- ❑ Failure to file interim and audited financial statements by due date
- ❑ Failure to submit extension of time and waiver requests
- ❑ Failure to notify the Commission before terminating an administration agreement
- ❑ Failure to notify the Commission before surrendering an investment fund licence
- ❑ Failure to file prescribed fund documents with the Commission by due date



Extension/Exemption/Waiver Requests (IFA & SIA)

Supporting documents to be provided when a fund or administrator applies for an extension, exemption or waiver of its audited statements:

- The reasons for the fund/administrator's inability to file its audited statements;
- The proposed date on which the audited statements will be available; or
- Any other information reasonably required by the Commission.



Winding Down of a Fund

- ❑ Directors' resolution
- ❑ Shareholders' resolution
- ❑ Original licence certificate
- ❑ Copy of the liquidation statement
- ❑ Letter of notification in the Gazette
- ❑ Submission of final audited financial statement or copy of the final NAV calculations

Dormancy of a Fund

- ❑ The final balance sheet or statement
- ❑ Original licence certificate
- ❑ Written application requesting that the fund's licence be suspended and the fund be made dormant
- ❑ Date of dormancy and date of intended re-launching



Investment Funds Licensed by Administrators

- ❑ Within 30 days of licensing a fund, all required information/documents are to be submitted to the Commission.
- ❑ Failure to submit the prescribed documents on or before the 30 day timeline will result in a penalty fee of double the annual registration fee of the fund.



Investment Funds (Amendment) Regulations, 2013

- New fees became effective 1 January 2014
- Increase in the application fee for fast tracked funds
- Introduction of Principal Office fees for self administered funds – in line with fees for other fund categories
- Establishment of service based administrative fees – reflecting the cost of providing services



Application and Renewal Fees for Restricted /Exempt Investment Fund Administrators

Category	Application Fee	Initial Licensing/ Exemption Fee	Annual Renewal Fee
Restricted Investment Fund Administrator (0-24 Funds)	\$3,000.00	\$5,500.00	\$8,000.00
Restricted Investment Fund Administrator (25-49 Funds)	\$4,500.00	\$7,500.00	\$13,000.00
Restricted Investment Fund Administrator (50 Funds or more)	\$6,500.00	\$9,500.00	\$17,000.00
Exempted Investment Fund Administrator	\$2,000.00	\$2,000.00	\$2,000.00
Representative of a Non-Bahamas based Fund	\$350.00	N/A	\$500.00





Application and Renewal Fees for Unrestricted Investment Fund Administrators

Category	Application Fee	Initial Licensing Fee	Annual Renewal Fee
Unrestricted Investment Fund Administrator (0-24 Funds)	\$6,500.00	\$9,500.00	\$13,000.00
Unrestricted Investment Fund Administrator (25-49 Funds)	\$7,500.00	\$10,500.00	\$18,000.00
Unrestricted Investment Fund Administrator (50 Funds or more)	\$9,500.00	\$12,500.00	\$22,000.00



Application and Renewal Fees for Investment Funds

Category	Application Fee	Annual Renewal Fee
Standard Fund	\$1,000.00	\$1,300.00
Professional Fund – With Administrator	\$1,000.00	\$1,300.00
Professional Fund – Self Administered	\$1,000.00	\$1,500.00
SMART Investment Fund – With Administrator	\$1,000.00	\$1,300.00
SMART Investment Fund – Self Administered	\$1,000.00	\$1,500.00
Recognized Foreign Fund	\$200.00	\$900.00
Fast Tracked Applications (Professional and SMART Funds)	\$2,000.00	See applicable Fund type



Administrative Fees

Category	Administrative Fee
Appointment or change in a director or Chief Executive Officer of an Investment Fund Administrator	\$300.00
Re-Launching of a Dormant Fund	\$650.00
Issuing, Transferring or Disposing of Shares of the Investment Fund Administrator	\$300.00
Recognition or change of an Approved Money Laundering Report Officer (MLRO) of an Investment Fund Administrator	\$500.00
Letter of Good Standing	\$200.00
Replacement Certificates (per certificate)	\$200.00
Notification of change of name and re-issuance of registration certificate (per certificate)	\$200.00



Administrative Fees (continued)

Category	Administrative Fee
Extension to file audited statements for a 3-month period (1 st extension request)	\$500.00
Extension to file audited statements for a 3-month period (2 nd extension request)	\$750.00
Surrender of Registration Certificate	\$200.00
Publication of advertisement in The Bahamas	\$100.00
Application for a “Exemption” or “Waiver” request	\$200.00



Late Fees

Category	Late Fee
Late payment of Annual Renewal Fees	1/12 of the amount of the annual fee payable (or portion thereof) that remains outstanding.
Late filing of Audited Financial Statements	Up to \$1,000.00 for each month (or portion thereof) the payment remains outstanding.



E-Filing Facility

- Open 1 May 2014 and closed 16 June 2014
- Statistics for the periods ended January-June 2013 and July- December 2013 were collected
- More user friendly (i.e. Copy/Paste, Edits)
- New fields include Assets Under Management, # of investors, geographic location, market sectors.
- Failure to file statistical information as directed can result in penalties being assessed.



INSPECTIONS DEPARTMENT UPDATES

Securities Industry Act, 2011 and Investment Funds Act, 2003

- Role of the Inspections Department
- The Commission's Authority to Inspect
- Types of Inspections, Inspections Process & Inspection Programme
- Joint Protocol with the Central Bank of The Bahamas
- Common on-site Inspections findings



Presenter: Altermize Missick, Manager
Inspections Department



The Role of The Inspections Department

- ❑ To conduct periodic on-site inspections to ensure that licensees/registrants are complying with the legislation that governs the Investment Funds, Securities and Capital Markets in The Bahamas.

- ❑ The Commission's Authority to conduct Inspections
 - Section 45 (1) of the Securities Industry Act, 2011.



TYPES OF INSPECTIONS

□ Routine Inspection

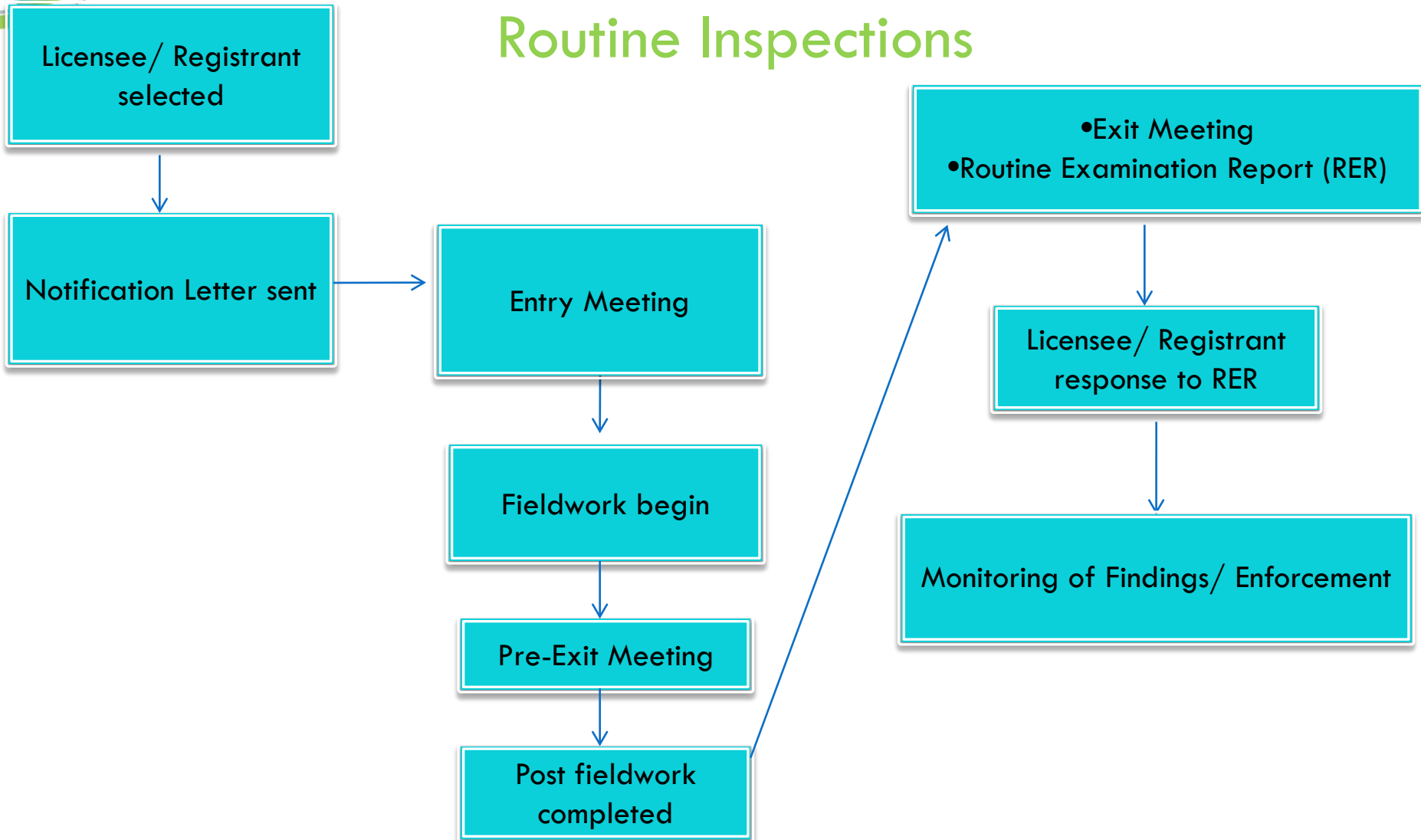
- Risk Assessment
- 3 to 5 year rotation

□ Inspection for Cause

- Credible Information
- Complaints

The Inspection Process

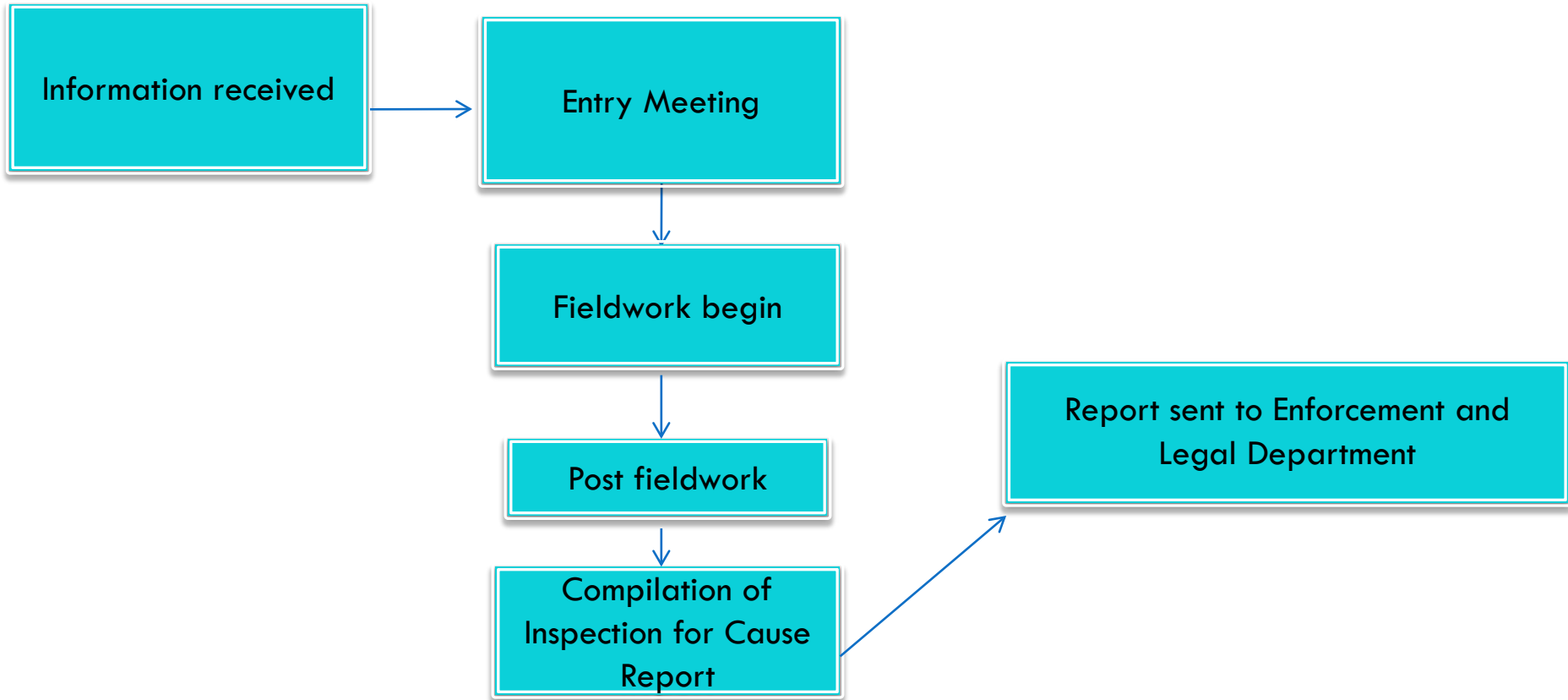
Routine Inspections





The Inspection Process

Inspection for Cause





The Inspection Programme

Pursuant to the SIA

❑ Business Risk Profile

- Compliance and risk management systems procedures, *Regulation 74, SIR, 2012*
- Conflict of Interest, *Regulation 80, SIR, 2012*
- Sufficient Insurance Coverage, *Regulation 43, SIR, 2012*

❑ Registration Matters

- Registerable persons, Section 69, SIA, 2011
- Compliance officer, CEO Regulation 40 (2), SIR, 2012

❑ Business Conduct

- Internal Audit function
- AML risk based approach
- Suspicious Transactions log



The Inspection Programme

Pursuant to the SIA

❑ Trading Operations

- Proper use of client securities, *Regulation 84, SIR, 2012*
- Segregation of client assets, *Regulation 73 (2), SIR, 2012*

❑ Record Keeping

- Advertising, *Regulation 92, SIR, 2012*
- Satisfactory records (In The Bahamas, in English, 7 years), *Regulation 20 (1)(a)(b), SIR, 2012*

❑ Financial and Capital

- External Auditor, *Section 76, SIA, 2011*
- Capital adequacy, *Regulation 42, SIR, 2012*
- Reconciliations, *Regulation 87(1), SIR, 2012*



The Inspection Programme

Pursuant to the SIA

□ Other Procedures

- Verification of identity, *Regulation 3, FITRR, 2001*
- Reporting of suspicious transactions, *Regulation 5, FITRR, 2001*
- Prevention of insider trading, *Regulation 134, SIR, 2012*



The Inspection Programme

Pursuant to the IFA

❑ Business Profile

- Policy and Procedures Manual, *Regulation 17 (1)(g), IFR, 2003*
- Net Asset Position, *Regulation 14 (3) (a)(b)(c), IFR, 2003*
- E-Filing, *Section 51 (2), IFA, 2003*

❑ Compliance and Legal

- Register of Directors for Fund Administrator, *Section 44, IFA, 2003*
- Constitutive and Offering Documents, *Regulation 21 and 23, IFA, 2003*

❑ Corporate Services

- Register of Directors/Funds under administration
- Blank Licence, *Statement of Practice for the issuance of blank licences*



The Inspection Programme

Pursuant to the IFA

□ Fund Administration/Accounting

- Service Level Agreements
- Redemption Suspension
- Subscriptions and Redemptions
- Duties and Responsibilities of Investment Manager

□ Administration and Technology

- Marketing Practice
- Disaster Recovery



Joint Protocol

- ❑ Joint Inspections with the Central Bank of The Bahamas
 - Routine
 - Inspection for Cause

- ❑ Joint Protocol
 - Planning, timing and scheduling
 - Preparation and execution
 - Reporting and recommendations
 - Follow up and enforcement actions



Joint Protocol

- Role of Each Agency
 - Schedule of Inspections
 - Notification
 - Inspections procedures
 - Preparation of reports
 - Follow up procedures
 - Enforcement actions
 - Information Sharing



Common On-site Inspection Findings

Finding/Breach	IFA	SIA
Failure to register	NA	Section 69 (4)(a)
Failure to notify of termination	NA	Regulation 48
Failure to submit audited financial statements	Section 31 (2)	Regulation 49 (1)(a)
Failure to segregate assets	NA	Regulation 88 (1)
Failure to notify of winding up	Section 28	NA
Failure to receive prior approval of Directors	Regulation 16 (3)	NA
Failure to notify investors if dealing in the investment fund ceases or is suspended	Regulation 26(6)	NA

QUESTIONS & ANSWERS





Contact Information

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