


Securities Commission of The Bahamas	
Reclassification and Downgrade of an Unrestricted Investment Fund Administrator License	
Ref: PIs55(1)(g)-180309	

1. DEFINITIONS AND SPECIAL TERMS

Securities laws - The Securities Industry Act, 2011 and the Investment Funds Act, 2003

2. APPLICABILITY & SCOPE

- 2.1 This policy is applicable to any person who, pursuant to the Investment Funds Act, 2003 (the “IFA”), is licensed by the Securities Commission of The Bahamas (“the Commission”) as an Unrestricted Investment Fund Administrator (“UIFA”) and, as such, is granted limited authority to act in the capacity of licensor for certain categories of investment funds.
- 2.2 This document establishes the Commission’s policy regarding the treatment of unrestricted investment fund administrators (“UIFAs”) who, in the exercise of their delegated authority with respect to the licensing of investment funds, breach provisions of the Investment Funds Act, 2003.

3. COMMENCEMENT DATE

- 3.1 This policy commenced 3rd January 2018.

4. AUTHORITY

- 4.1 The Commission has authority to publish policies describing the views of the Commission regarding the interpretation, application, or enforcement of securities laws in the discharge of its function (SIA s. 13(j)).
- 4.2 Pursuant to section 54 of the IFA, the Commission has the authority to conduct regulatory hearings to investigate matters and enforce disciplinary actions.
- 4.3 Further, pursuant to section 55(1)(g) of the IFA, the Commission has authority to sanction the reclassification of an investment fund administrator’s license as a result of any settlements of disputes between persons or decisions of the Commission as a result of regulatory hearings.

5. BACKGROUND

- 5.1 UIFAs are expected to be aware of, and comply with, all legislative obligations. Moreover, given their delegated authority to license an investment fund, UIFAs are expected to comply with all legislative requirements in the same manner that the Commission would comply with legislative requirements for the licensing of the same category of investment fund.
- 5.2 All documents associated with the licensing of investment funds by a UIFA must be filed with the Commission within 30 days of licensing. Failure to submit all required documents within the required 30 days may result in the UIFA being assessed a penalty in the amount of \$2,600 pursuant to Section 13 (5) of IFA 2003.

6. ISSUANCE OF A WARNING LETTER

- 6.1 In the case of any of the following events, the Commission shall issue a warning letter to the UIFA:
- Where it has been determined by the Commission that due diligence was performed/obtained after an investment fund was licensed by the UIFA;
 - Where the UIFA fails to provide all required documents after a penalty letter has been issued by the Commission;
 - Where the UIFA fails to submit the prescribed penalty fee after a penalty letter has been issued by the Commission; or
 - Where the UIFA attempts to license an investment fund that may only be licensed by the Commission (e.g. a SMART fund that does not appoint an investment fund administrator).
- 6.2 The warning letter will advise that the UIFA has breached legislative provisions. It will further advise that the breaches are expected to be corrected and that any repeat violations may result in the reclassification and downgrade of the UIFA's license.

7. REVIEW OF UNRESTRICTED INVESTMENT FUND ADMINISTRATOR

- 7.1 Upon issuance of a warning letter, the Commission will review the records of the UIFA being warned for the following:
- Previous Infractions; and
 - Warning letters issued within the previous 12 months.
- 7.2 Upon review, the Commission will make the determination as to whether or not to pursue reclassification of the UIFA's license to that of a restricted investment fund administrator (RIFA). If it is determined that the UIFA license should be reclassified, the matter will be referred to the enforcement department for a regulatory hearing.

8. PROCESS FOR RECLASSIFICATION OF A UIFA LICENSE

- 8.1 The reclassification and downgrade of the UIFA's license to a Restricted Investment Fund Administrator (RIFA") would remove the licensee's delegated authority to license investment funds. Any new funds to be administered by the former UIFA would be required to be licensed by the Commission.

9. PROCESS FOR REINSTATEMENT OF A UIFA'S LICENSE

- 9.1 After a period of 2 years, a reclassified administrator may reapply for a license as a UIFA. Upon receipt of such application, the Commission will consider the level of compliance during the period since the reclassification and downgrade of the license.
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