



# STATEMENT OF PRIORITIES FOR 2009

Presented by  
**Hillary Deveaux**  
Executive Director



# Enhanced Business Capability

- Prioritised four strategic goals for 2009 that will contribute to the Commission's **enhanced business capability**.
- Goals translate vision and direction into policies and procedures that will strengthen the capacity of the Commission to **execute its mandate more effectively**.
- Establish a **regulatory framework that is responsive**.



# Statements of Priorities

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- The **Statement of Priorities** sets out the goals of the Commission for a particular year and presents the specific initiatives necessary to achieve them.
- The Statement for 2009 embody the mission, vision and mandate of the Commission serve as a guide for the development of future Statements of Priorities.



# The Challenges Ahead

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- The borderless environment in which the Commission operates.
- Preparing to be a part of a consolidated regulator of financial services.



# Commission Goals for 2009

- Conduct a comprehensive review of the Commission to identify areas of risk and required improvements.
- Improve the efficiency of the Commission.
- Enhance the legislative framework of the Commission.
- Enhance transparency in the operations of the Commission.



# 2009 Goals and Specific Initiatives

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## GOAL # 1

- **Conduct a comprehensive review of the Commission to identify areas of risk and required improvements**

## Specific Initiatives:

- An enterprise risk assessment will be undertaken to address issues related to:
  - the development of effective enforcement mechanisms, which are integral to maintaining confidence in capital markets and averting harm to investors;
  - the regulatory framework within which the Commission operates;
  - evaluating the factors affecting the jurisdiction's competitiveness.



# 2009 Goals and Specific Initiatives

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## GOAL # 2

- **Enhance the efficiency of the Commission.**

## Specific Initiatives:

- Streamline the processes for planning, reporting and measuring performance.
- Enhance the collection, storage and dissemination of information including databases and the website.
- Improve the legislative and policy development process of the Commission.
- Develop and provide internal and industry training programs.



# 2009 Goals and Specific Initiatives

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## Goal # 3

- **Enhance the legislative framework of the Commission**

## Specific Initiative

- Finalize the draft of the Securities Industry Regulations to accompany the draft Act;
- Codify amendments to the Investment Funds legislation with a view to enabling provisions that maintain The Bahamas' competitive position; and
- Conduct a review of the FCSPA to identify deficiencies and address with amendments, where necessary.





# 2009 Goals and Specific Initiatives

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## Goal #4

- Enhance the transparency in the operations of the Commission.

## Specific Initiatives

- Document policies of the board as well as enhance documentation of internal operating procedures.
- Maintain open lines of communication with industry participants and the public with a revamped website and continued dialogue at industry briefing sessions.
- Implementing a streamlined planning, reporting and measurement of success process. The result of this will be the publication of annual statements of priorities and reports on the achievement of annual goals (in annual reports).



# Conclusion

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## STRATEGIC GOALS

- 1. Conduct a comprehensive review of the Commission to identify areas of risk and required improvements;**
- 2. Improve the efficiency of the Commission;**
- 3. Enhance the legislative framework of the Commission; and**
- 4. Enhance transparency in the operations of the Commission.**

## OUTCOMES

- enhanced business capability and strengthened capacity of the Commission to execute its mandate more effectively.**



# Update from The Authorization Department

Presented by  
Peggy E. Knowles  
Acting Manager



# MANDATE

**The Securities Industry Act, 1999 (“the SIA”) & The Securities Industry Regulations, 2000 (“the SIR”)**

**Investment Funds Act, 2003 (“the IFA”) & Investment Funds Regulations, 2003 (“the IFR”)**

**Financial and Corporate Service Providers Act, 2000 (“the FCSPA”) & Financial and Corporate Service Providers Regulations, 2000 (“the FCSPR”).**



# Application for licensing under the Investment Fund Act, 2003

## Types of Investment Fund Administrators:

- Unrestricted
- Restricted
- Exempt

## Types of Investment Funds:

- Standard
- Professional
- SMART
- Recognized Foreign Fund
- Self Administered



# Application for licensing under the Securities Industry Act, 1999

- **Licensing/registration**
  - Broker-Dealers I & II
  - Securities Investment Advisors
  - Principals
  - Brokers
  - Associated Persons
- **Prospectuses for public offerings**
- **Stock exchanges in relation to their rules**
- **Policies, Guidelines and Rules**



# Application for licensing under the Financial and Corporate Service Providers Act, 2000



**Individuals**



**Partnerships**



**Companies**



# DUE DILIGENCE

*Character*

*Competence*

*Financial Soundness*

*Tools*





# FAST TRACKING

License within 72 hours

# Challenges



**Late Filings**

**Fees**

**Stale-dating**



*Thank you for your undivided attention*



# Update from The Market Surveillance Department

**Presented By**  
**Sally E. Moss**  
**Manager**



# THE PRESENTATION

- **MANDATE & FUNCTIONS**
- **CHALLENGES**
- **INITIATIVES**



# MANDATE

*Administer the Commission's off-site examination program for all market participants, to ensure their compliance with the legislative requirements relevant to the nature of the authorization granted.*

# GENERAL FUNCTIONS

- Monitor the activities of capital market participants for breaches of applicable legislation through, inter alia, the review of statutory filings, including audited financial statements , reports of material changes and issues recorded in the press
- Ensure that statutory filings are in compliance with agreed standards
- Regulate mergers and acquisitions
- Respond to enquiries with regard to market participants and products



# GENERAL FUNCTIONS (cont'd)

- **Monitor developments in the international securities and capital markets to ensure that the Commission's policies, programs and procedures keep pace and advise on any such developments that may have a local impact**
- **Maintain the statistical database pertaining to the industry**
- **Keep the investing public abreast of relevant regulatory developments**
- **Assist the exchange with the regulation of the activities of public companies**
- **Collect annual and other operational fees**



# OBJECTIVES

- Carry out the responsibilities placed on the Department by the various legislation in an effective and efficient manner
- Observe and adhere to international best practices while monitoring and responding to external developments, taking into consideration the nature of the market place
- Prioritize the allocation of the Department's resources by developing and applying risk-based supervisory approaches as far as possible

# OBJECTIVES (CONT'D)

- Detect problems at an early stage, and take regulatory action on a timely basis where the Department considers a licensee's practices to be imprudent or improper or where an entity is otherwise failing to meet its statutory obligations
- Where major concerns arise in a licensed institution, to arrange, wherever possible, an early return to compliance or if that is not possible, its exit from the market in a timely and efficient manner.

# RESPONSIBILITIES

- **Monitoring**
- **Supervision**
- **Regulation**



# OUR PHILOSOPHY

The MSD is committed to:

- providing open, transparent regulatory frameworks and requirements, which are consistent with international best practice
- applying and enforcing these requirements sensibly and consistently in a firm but fair manner

# UPDATE

1.

CHALLENGES



2.

INITIATIVES



# CHALLENGES

- **STATUTORY REPORTING**

1. **FINANCIAL REPORTING**

- **AUDITED FINANCIAL STATEMENTS**
- **PERFORMANCE REPORTS**



# FINANCIAL REPORTING

## AUDITED FINANCIAL STATEMENTS

	2005	2006	2007
FUND TYPE	COMPLIANCE RATE	COMPLIANCE RATE	COMPLIANCE RATE
Standard Funds	18%	22%	18%
Professional Funds	15%	7%	23%
SMART Funds	11%	19%	21%
<b>AVERAGE</b>	<b>15%</b>	<b>22%</b>	<b>22%</b>



# FINANCIAL REPORTING

## AUDITED FINANCIAL STATEMENTS

	2005	2006	2007 (JUN)
FUND TYPE	% TOTAL FILING	% TOTAL FILING	% TOTAL FILING
Standard Funds	68%	72%	39%
Professional Funds	73%	77%	34%
SMART Funds	40%	22%	26%
<b>AVERAGE</b>	<b>66%</b>	<b>67%</b>	<b>35%</b>





# CHALLENGES

- **STATUTORY REPORTING**

- 2. FINANCIAL REPORTING**

- **INTERIM FINANCIAL REPORTS –  
SECURITIES REGISTRANTS (REG. 49  
SECURITIES INDUSTRY REGULATIONS)**



# CHALLENGES

## • STATUTORY REPORTING

### 3. MATERIAL CHANGE

- Fund movement – liquidations, transfers, dormancy
- Resignations of registered personnel

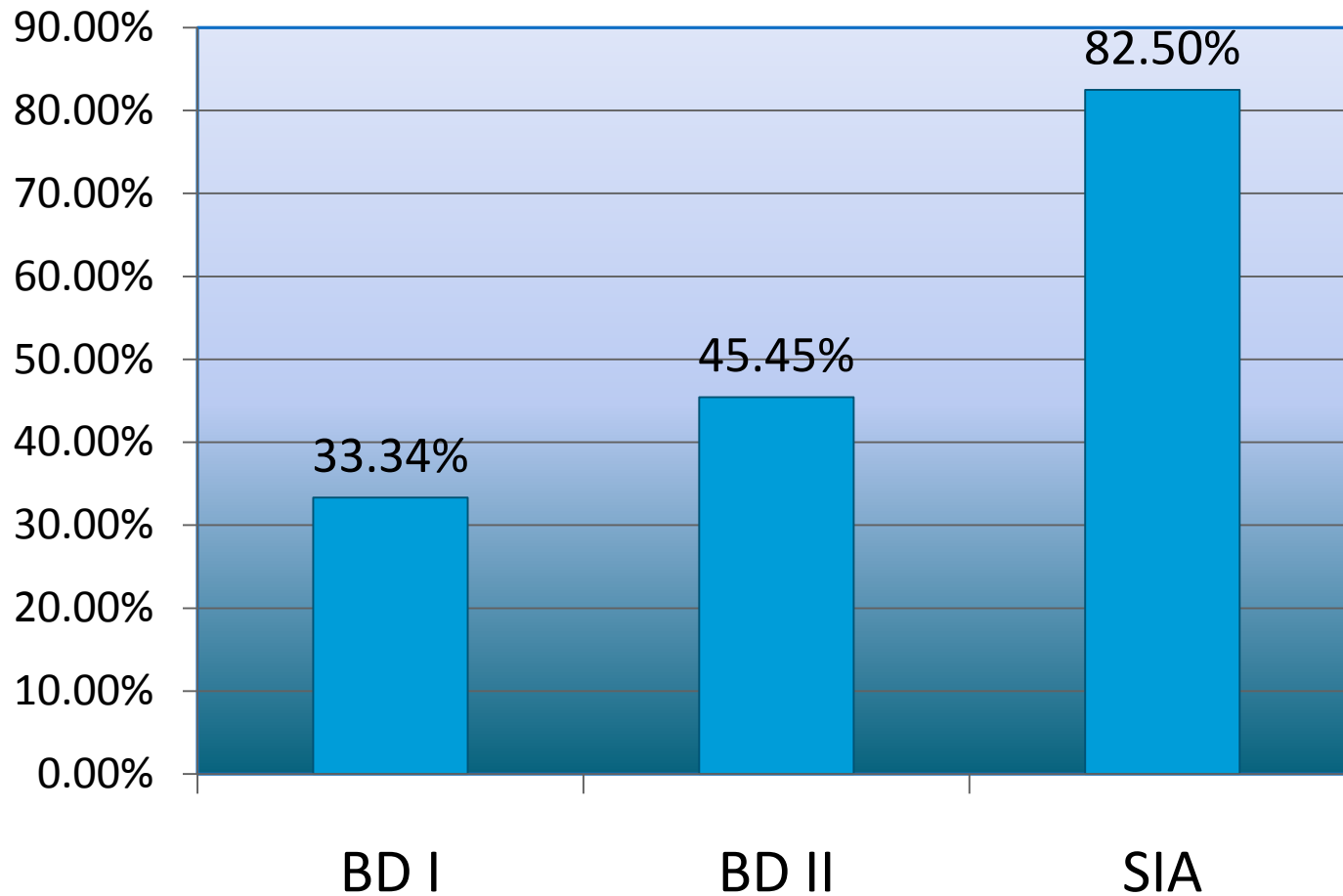


# CHALLENGES

- **REGULATORY CAPITAL**
  - **FAILURE TO MAINTAIN REQUIRED LEVEL**



# REGULATORY CAPITAL OF REGISTERED FIRMS COMPLIANCE RATE



# INITIATIVES

- PRUDENTIAL MEETINGS
- ACCOUNT OFFICERS



# INITIATIVES

- **FORMAT FOR PERFORMANCE REPORTS**
- **FORMAT FOR INTERIM FILING**
- **CORPORATE GOVERNANCE DECLARATION**
- **PROCEDURE FOR PRUDENTIAL MEETINGS**



**THANK YOU!**



# Update From The Inspections Department

Presented by Addie Winder  
Manager Inspections Department





- Protocol for Joint On-Site Examinations with The Central Bank of The Bahamas.
- Development of a Risk-Based Framework for Licensees.
- Coordination of supervisory activities with a consistent focus on higher risks.
- Dialogue between the Commission and Licensees.



# Update from Policy & Research Department

Presented by  
Jessika Sawyer, Manager  
Policy & Research Department



**Investor  
Education**

**Website**

**Reporting**

**Legislation &  
Policy  
Development**

**Statistics -  
Collection &  
Dissemination**

**Research &  
Analysis**

**Development of  
Procedures**

**Data**

**Information &  
Resource  
Centre**

**Registry**

**Publications**

**Public  
Relations**



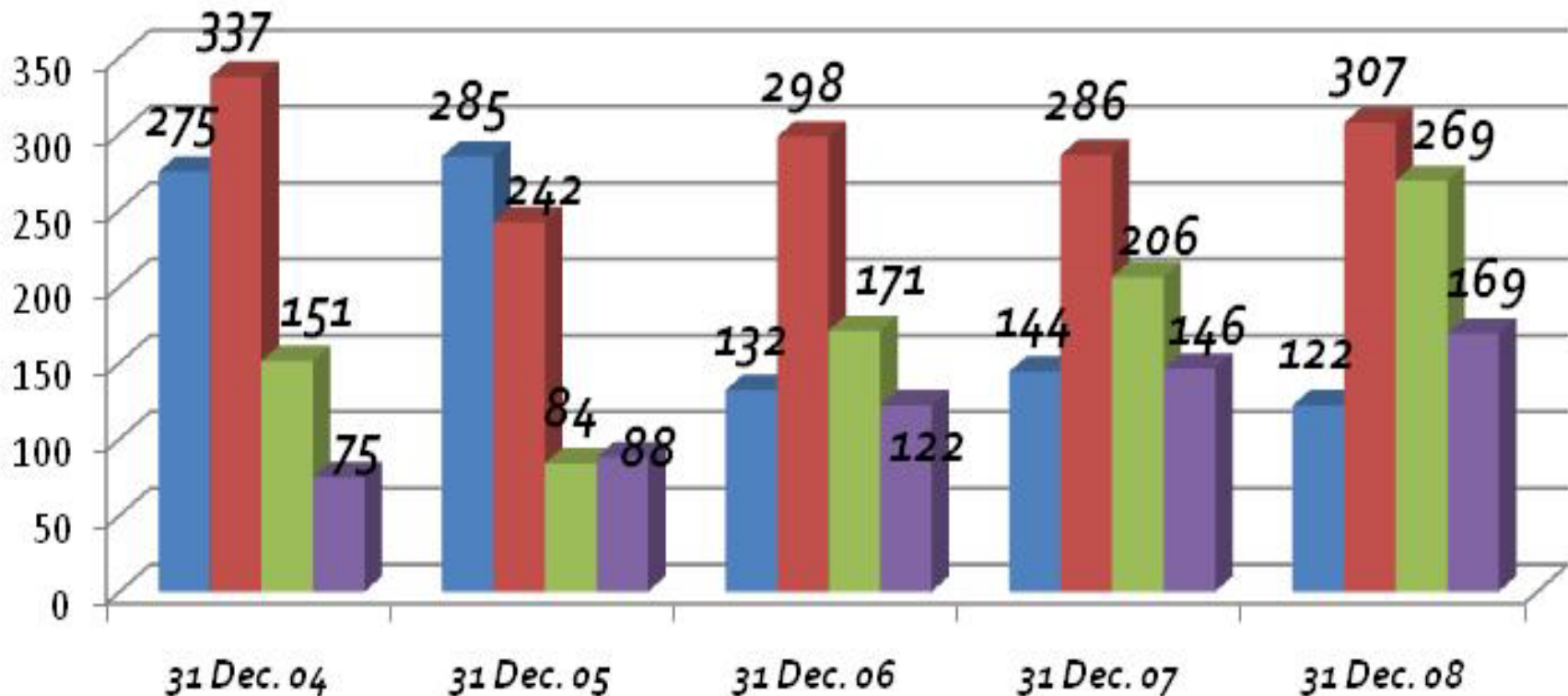
➤ Collection,  
Analysis and  
Dissemin-  
ation of Data

➤ Investor  
Education  
Program –  
*Getting My  
Money Right*

# Currently Collected Data

## Investment Funds by Type

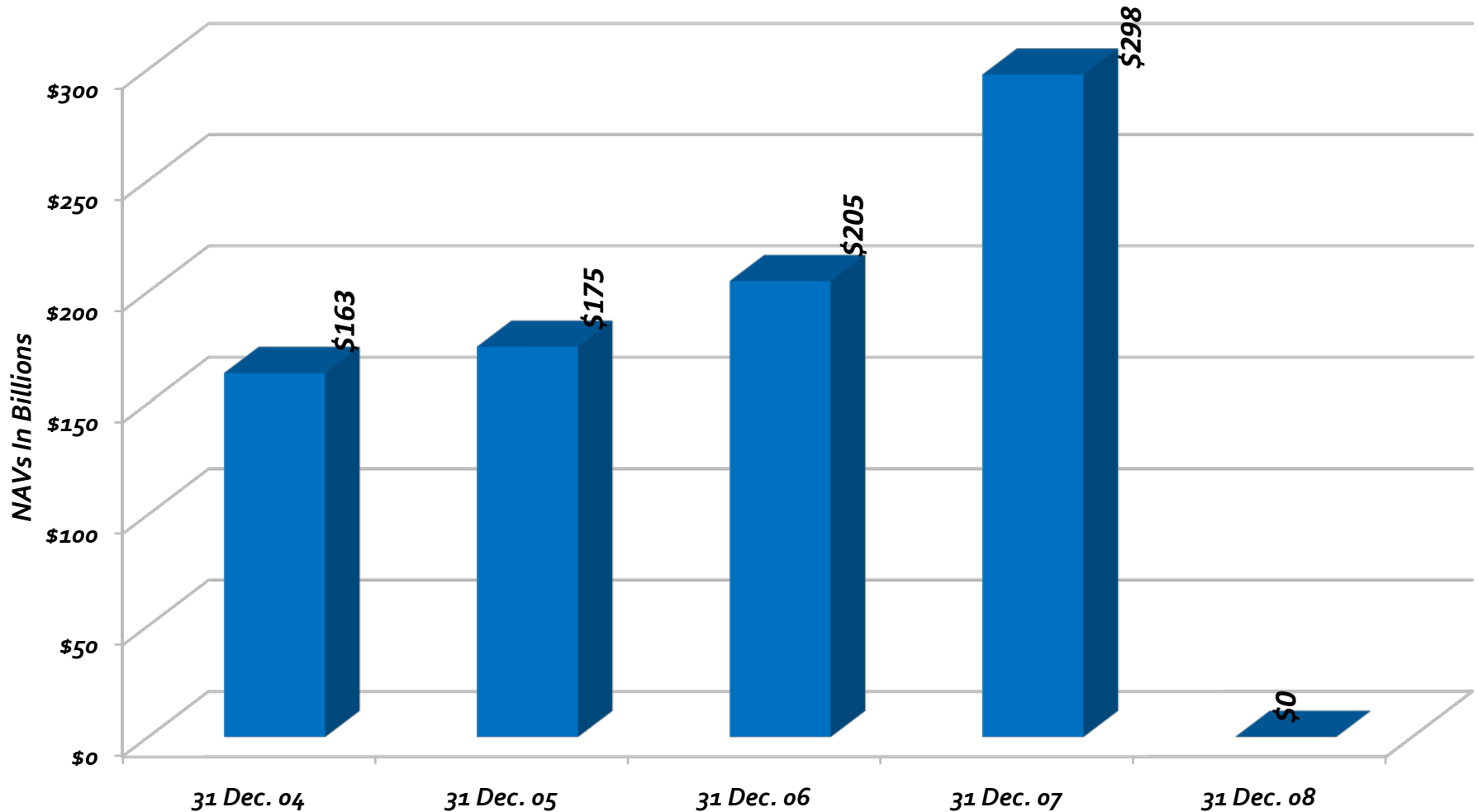
■ Standard Funds   
 ■ Professional Funds   
 ■ Recognized Foreign Funds   
 ■ SMART FUNDS





# Currently Collected Data

*Total Net Asset Value under Management,  
Investment Funds Act, 2003*





# Enhanced Data Collection and Dissemination

- OUTPUTS FROM THESE EXERCISES WILL BE GREATER AVAILABILITY OF RELIABLE DATA THAT WILL RESULT IN:
  - The Production of quarterly statistical digests ; and
  - Publishing of data on the Commission's website

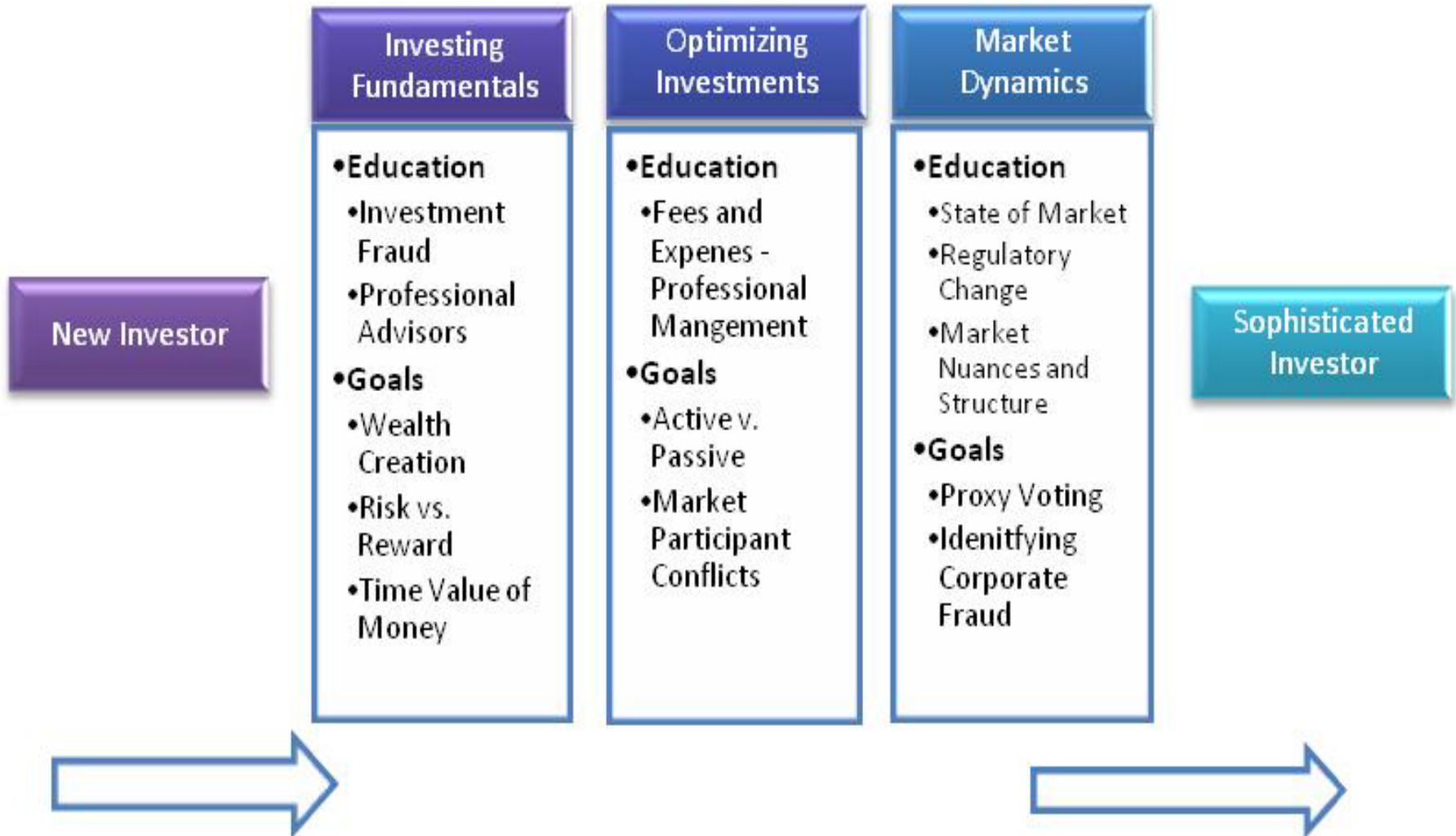


## ➤ Investor Education Program -

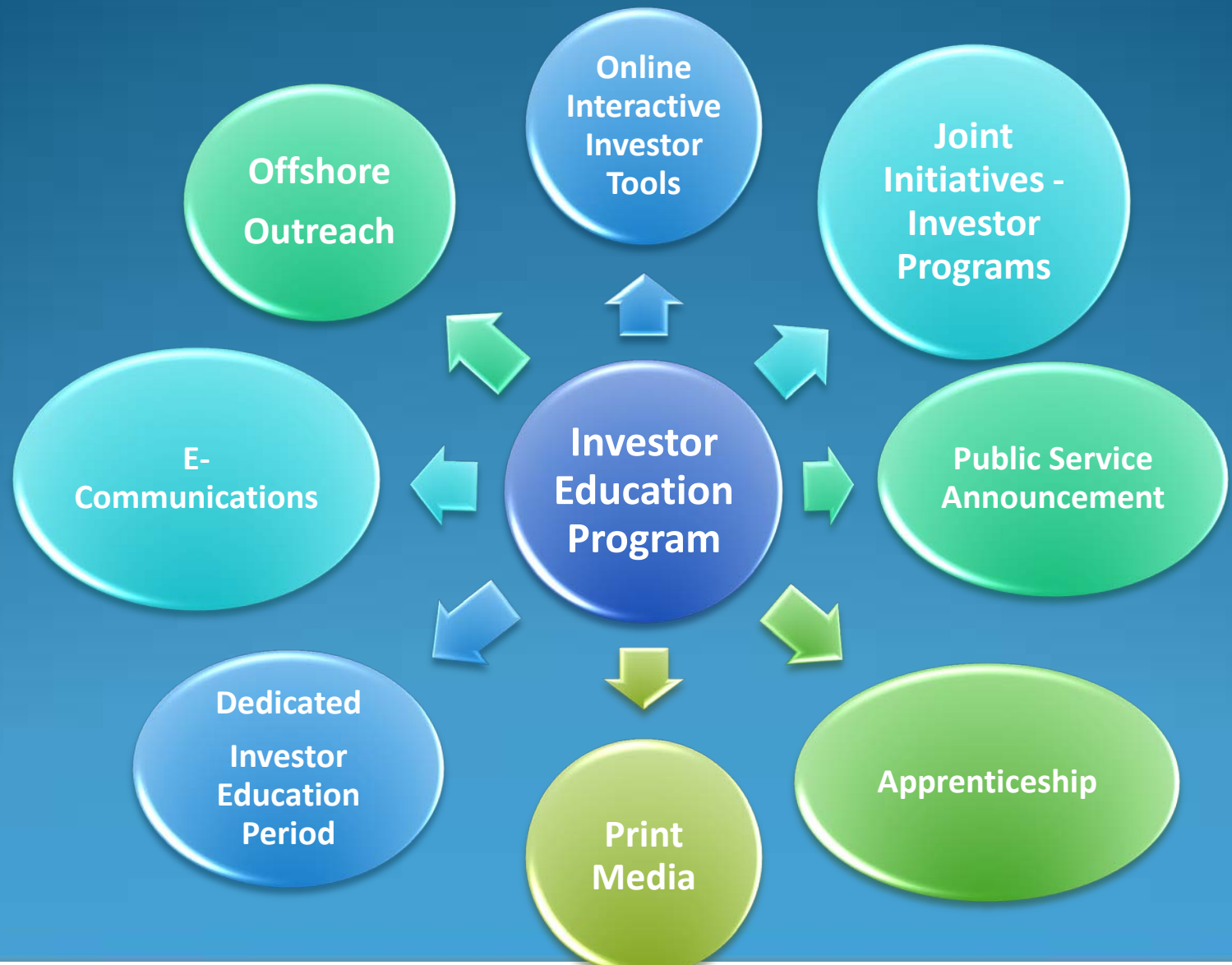
*Getting My Money Right*



# Objective of the Program

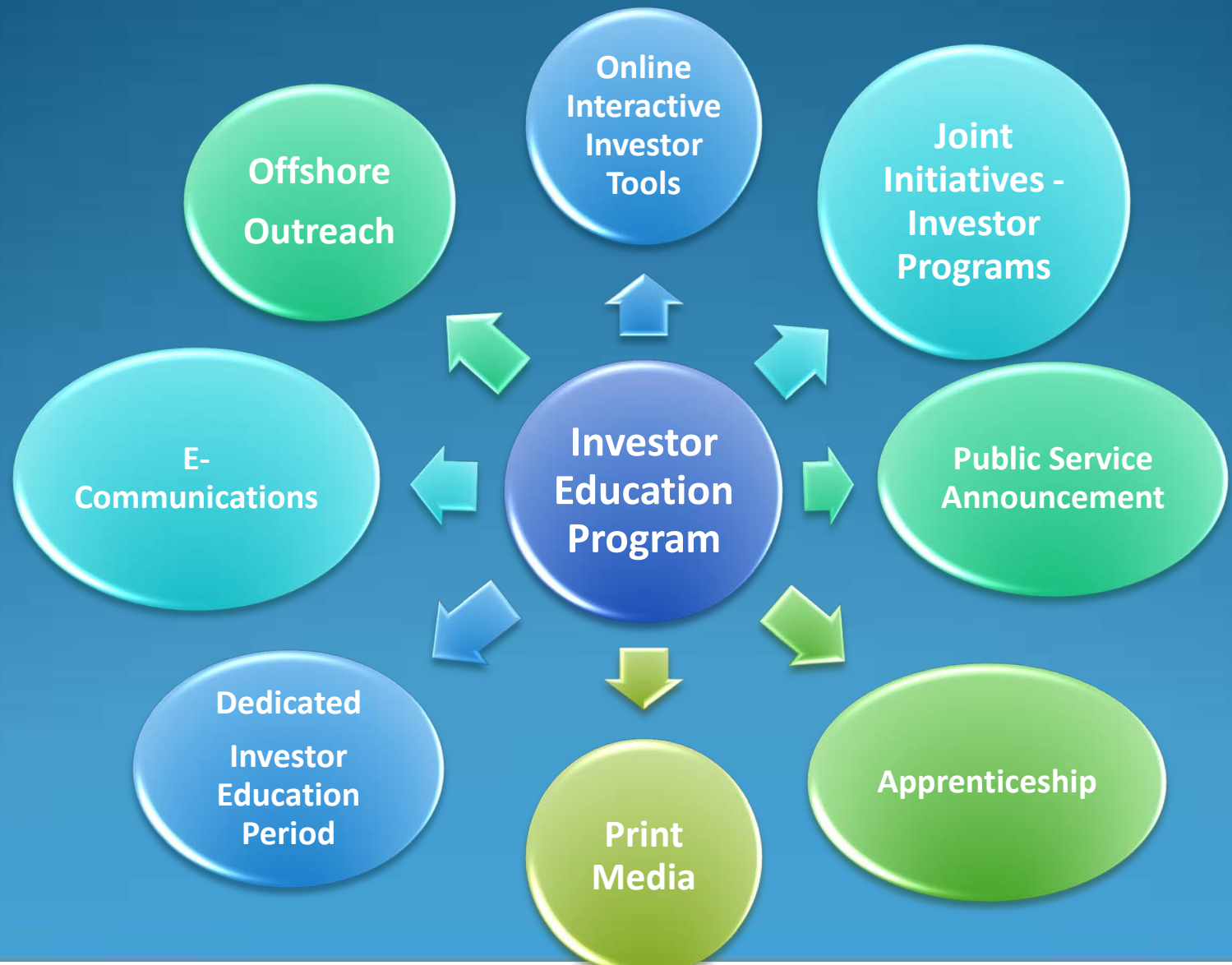


# Getting My Money Right





# Getting My Money Right





# Getting My Money Right

- **An informed and educated investor is the best investor.**



# Update from The Office of Legal Counsel

Presented by  
Mechelle Martinborough  
Legal Counsel



# Status of the Draft Securities Industry Regulations, 2008 (SIR)

- Timing of the submission of the first draft of the SIR and comments thereon could not realistically accommodate a December 2008 release for Public Consultation
- Commission's proposed accelerated program would have been detrimental to the process
- Based on the most recently proposed schedule the Regulations would be released end of March, 2009.



# Status of Amendments to the Investment Funds Act, 2003

- The amendments being pursued include –
  - (i) Change in definition of Investment Fund;
  - (ii) Change in definition of Professional Fund;
  - (iii) Change in definition of Recognized Foreign Fund; and
  - (iv) Extend filing of Audit deadline from 4 to 6 months.
- Amendments have been submitted to Funds Working group for their final comment



# Update and status of Amendments to the SMART Fund Rules

- Amendments to SFM 004 rule presently being processed to enable the SFM 004 to be used by other legal entities such as partnerships and not restrict their use to companies only.
- SFM 004 also being amended to ensure that the reference in the rule to administering an SFM 004 does not imply that the fund is required to appoint an administrator.
- SFM 006 which provides the vehicle for establishing a 'side pocket' fund has been developed and is in the process of being published in the gazette.





# SIDE LETTERS

- SCB has concluded its proposed position on how these matters are to be addressed in The Bahamas and has requested input on the same from the Funds Working Group.
- Recommendations are:
  - Creation of side letters to be enabled through the constitutive documents of the fund;
  - Disclosure of possibility of creating side letters to be made in Offering Documents of the fund; and
  - Specific notification to investors to be required upon the establishment of a side letter.



# Status of the SCB application to sign IOSCO MMOU

- The application of the SCB has been submitted to the Verification Team 6 of IOSCO.
- SCB has responded to initial comments.
- We are advised that the application will be submitted to Screening Group at their April meeting at which time it appears that the SCB will be recommended for Signatory 'B' status.



# Amendments to Financial Legislation as at January 5, 2009

- **List of Amended Legislation includes –**
  - *Financial Intelligence Unit (Amendment) Act, 2009*
  - *International Business Companies (Amendment) Act, 2009*
  - *Securities Industry (Amendment) Act, 2009*
  - *Financial and Corporate Service Providers (Amendment) Act, 2009*
  - *Financial Transactions Reporting (Amendment) Act, 2009*



# Securities Industry (Amendment) Act, 2009

The amendment to section 93 of the SIA removes the words **“provided however that such guidelines shall not be taken as having the force of law.”**

The effect being that guidelines issued by the Commission will be interpreted as legally binding.



# Financial Corporate Service Providers (Amendment) Act, 2009

- S6 – Repeals requirement for the annual renewal of licenses.
- S14 - (i) Exemption from reference and record keeping requirements is no longer absolute as now subject to guidance or directive from Inspector;  
(ii) Application of Exemption extended to include Financial and Foreign Financial Institutions as defined in the FTRA and requires Financial Institution to be subject to regulation through a licensing process.



# Financial Corporate Service Providers (Amendment) Act, 2009

- S2 – Court is defined as Supreme Court.
- S11 – New subsection (6) empowers inspector to issue rules, guidelines and directives.
- S18 – Establishes Administrative Sanctioning authority.



# Financial Transactions Reporting (Amendment) Act, 2009

- S3 – ‘Operator’ of investment fund no longer considered a Financial Institution
- Sections 7 – 9 and 11 amended to make exemptions from requirement to verify identity of clients subject to the guidance and directive of the FI’s Supervisory Authority.
- S46 – Codifies the position that Financial Institutions (FIs) subject to regulation by SCB, ORIC or the Inspector are not within the jurisdiction of the Compliance Commission.



# Financial Transactions Reporting (Amendment) Act, 2009

- S2 – Definitions of Occasional Transaction, Financial Institution (FI) and Supervisory Authority have been amended.
- S15 – Auditor to report suspicious findings to FIU not police.
- S27 – Liquidator not FI to maintain records after the FI is dissolved.
- S47 - Makes the Compliance Commission's Codes of Practice enforceable.