



## **GUIDELINES FOR THE ON-SITE EXAMINATION PROCESS OF THE SECURITIES COMMISSION OF THE BAHAMAS**

### **I. INTRODUCTION**

The Securities Commission of The Bahamas (the Commission) is a statutory body established in 1995 under the Securities Board Act, 1995 which was repealed and replaced by the Securities Industry Act, 1999 (the SIA). It is the institution responsible for the regulation of investment funds and securities and capital markets in The Bahamas. The regulatory authority of the Commission to regulate participants in the securities industry of The Bahamas, is contained in the SIA, while the Investment Funds Act, 2003 (the IFA) makes similar provisions relating to the regulation of the investment fund participants.

The Commission is granted, pursuant to Section 4(2) of the SIA, wide discretionary powers to execute its mandate. This is necessary to ensure fair-play and the integrity of the market while facilitating its development. Investor education and protection also constitute an important part of the Commission's mandate. In carrying out its mandate, the Commission conducts periodic On-site Examinations to ensure that its licensees/registrants (licensees) are complying with the legislation that governs the investment funds and securities and capital markets industries in The Bahamas.

The objectives of the Commission's On-site Examination process are to update the Commission's understanding of the licensee's operations, determine the accuracy of the Company's registration as a Broker-Dealer, Investment Funds Administrator, Securities Investment Advisor and the registration of individuals within the Company, and test the Company's compliance with the Securities Industry Act, 1999, the Securities Industry Regulations, 2000, the Investment Funds Act, 2003, the Investment Funds Regulations, 2003, the Financial Transactions Reporting Act, 2000, its procedures manual and generally accepted corporate governance practices.

Pursuant to Section 49 (2), (3), and (4) of the IFA, in any case where the Commission is unable to conduct an on-site examination, it may appoint an Auditor, at the expense of the investment fund or party related to the investment fund, to conduct the examination and report to the Commission. The Commission may assess charges to recover the cost of the examination. The Commission will examine, consider and make recommendations on any information or report prepared as a result of the examination.

## **II. PURPOSE**

Routine Examinations are conducted on a periodic basis, at intervals that the Commission determines to be appropriate, considering its assessed level of risk of the licensee's business and operations. Inspections for Cause may be conducted based upon customer complaints, or credible information provided to the Commission.

The objective of this guide is to promote awareness and enhance the transparency of the examination process for licensees and other interested parties.

## **III. APPLICABILITY**

This Guide applies to all licensees of the Commission.

## **IV. ON-SITE EXAMINATION PROCESS**

### **1. Selection**

Examinations are generally conducted on a 3-5 year rotation considering the assessed level of risk of the licensee's business and operations, unless circumstances identified during the off-site monitoring process dictate that an examination should be scheduled sooner.

Inspections for Cause will be conducted outside of the selection process indicated above if complaints or credible information come to the attention of the Commission requiring appropriate action and/or investigation. In these circumstances, the examination process outlined below will be similar unless otherwise indicated.

### **2. Notification Letter**

Licensees are generally given 30 days notice prior to the commencement of a Routine Inspection. The Notification Letter includes an examination questionnaire and a request for documents that will be required to begin the initial planning process, and any documents that need to be available at the commencement of the examination. Licensees are requested to have the relevant staff available for the inspection to ensure timely completion of the process for the Licensee as well as the Examiners.

In the case of Inspections for Cause, a Notification Letter is given at the commencement of the inspection.

### **3. Planning**

Examination planning involves but is not limited to the coordination of work assignments for examiners, scheduling of interviews with licensees, reviews of files related to the licensees being examined, and the determination of the nature, extent, and timing of the

examination to be conducted. On-site examinations can be scheduled for 3 to 20 days depending on the nature, size, or complexity of the entity being examined. The Senior Examiner is responsible for the efficient operation of the examination planning, coordination, and timely completion, and the preparation of the Routine Examination Report (RER), which will reflect the examinations findings.

#### **4. Execution of Fieldwork**

On the date of commencement of the examination an initial interview is conducted with the licensee's Senior Management for a current overview of the licensee's operations, fact finding and any other information that may impact the nature, extent, and timing, of the examination. Examiners proceed to execute the inspection program steps for the duration of the examination after which a report is prepared. Upon completion of fieldwork, and reviews by Management in the Inspections Department, an exit meeting is scheduled with the licensee to discuss the examination's initial findings.

#### **5. Completion**

Upon completion of the examination a Draft RER is prepared by the examiners and reviewed by the Commission's Review Committee. The RER is then finalized and issued to the licensee.

Licenses are requested to respond within 30 days from the date of receipt of the RER to the findings of the examination. Once a response is received from the licensee, an Initial Follow-up Transition Report (IFTR) is prepared which lists the findings from the RER, the responses from the licensee, and any follow up action that may be required by the Commission. If necessary the examination team may be required to return on-site to physically verify the implementation of a procedure or review additional documents, based on the licensee's response to the RER.

In the case of Inspections for Cause, a report will be prepared outlining the findings pertaining to the relevant matters being addressed in the inspection.

#### **6. Examinations of Licensees regulated by both the Securities Commission of The Bahamas and the Central Bank of The Bahamas (“Jointly Regulated Licensees”)**

In an attempt to better coordinate supervisory efforts and minimize overlaps in regulatory practices, the Securities Commission of The Bahamas (the Commission) and the Central Bank of The Bahamas (the Central Bank) have agreed a Joint On-Site Examination Programme (JEP) for the coordination of joint examinations of Jointly Regulated Licensees. The key objectives of the JEP are to streamline the examination activities by coordinating:

- . the planning, timing and scope of examinations of these institutions;
- . the reporting of examination findings and recommendations; and
- . follow-up and enforcement actions, if any.

As the primary regulator/supervisor for banks and trusts companies, the Central Bank will take the lead in coordinating the conduct of the joint on-site examinations.

Overall coordination and oversight of the JEP is the responsibility of a Joint Examinations Committee (“JEC”), comprising senior staff responsible for the planning and scheduling of the on-site examinations in the Commission and the Central Bank.

In the case of Jointly Regulated Licensees, decisions for participation in the Joint Examination process for a specific licensee will be made by members of the Joint Examination Planning Committee based on the criteria set out in the Central Bank’s Guide to the On-Site Examination Process. A copy of the Guide can be found on the Central Bank’s website at [www.centralbankbahamas.com](http://www.centralbankbahamas.com).

The Central Bank will send the Notification/Scope Letter for a Jointly Regulated Licensee and is generally sent at least six (6) weeks prior to the start of the examination. The Notification Letter will include, as an attachment, a formal letter from the Commission detailing information required to facilitate preparation for segments of the examination which fall under the regulatory authority of the Commission.

For a Jointly Regulated Licensee, an Examiner-in-Charge (“EIC”) from the Central Bank is appointed to take the lead in coordinating the conduct of the joint on-site examination. The Senior Examiner from the Commission will coordinate with the EIC, the planned processes for the entire examination that are relevant to the Commission’s segment of the examination.

In the case of the Jointly Regulated Licensees, the Commission and the Central Bank will prepare their respective sections of a Draft Report on Examination (“RoE”), (marked for discussion purposes only), which will then be forwarded under cover letter from the Central Bank to the licensee’s senior official for review and comments.

Subsequent to the “closing meeting” the Commission and the Central Bank will make any necessary amendments to their respective Draft RoEs after which, they are submitted to their respective internal RoE approval committees prior to transmittal to the licensee.

## **7. Special Focus Examinations of Jointly Regulated Licensees**

Where either the Commission or the Central Bank has supervisory concerns about a jointly regulated licensee and considers that a “Special Focus Examination” should be conducted, such an examination may be conducted individually or jointly by each agency without observing the usual notification period prior to an examination.

## **8. Enforcement Action**

In the case of Jointly Regulated Licensees, enforcement action will be taken by the respective agency that has primary responsibility for the issue that caused the concern.