

Securities Commission of The Bahamas

**3RD 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 Assembles IFA Technical Team

Two Government Ministers with portfolios impacting the securities industry joined in a combined show of support at the inaugural meeting of the Investment Funds Act Technical Team (IFATT), which will steer development of modern investment funds legislation.

Minister of State in the Ministry of Finance the Hon. Michael Halkitis and Minister of Financial Services the Hon. Ryan Pinder joined the meeting at Luciano's of Chicago on Friday 7 September 2012, on the invitation of the Securities Commission of The Bahamas (SCB). The Ministers said their portfolios demand a shared commitment to ensuring the new legislation provides a regulatory standard appropriate to operations in The Bahamas and conducive to the development of the industry.

"I hope my presence here reinforces the need for a focus on modern legislation that maximizes growth and development of the sector in a way that is fair to all of its stakeholders, and enhances the Bahamas' reputation as a respected financial centre," said Minister Halkitis.

According to Minister Pinder, facilitating the innovation of wealth managers in The Bahamas was critical to development of the funds industry and could lead to a return to meaningful employment for many Bahamians, as well as the creation of new employment opportunities for generations to come, according to Minister Pinder.

"We are thrilled to collaborate in this demonstration of support for modernizing the legislative framework for the funds business to ensure balanced, holistic, internationally respected legislation that fosters the kind of Bahamian innovation the industry has demonstrated in the past, and needs once more to grow and take a leadership position moving forward," said Minister Pinder.

The IFATT is comprised of legal and financial experts and visionaries from within the investment funds and broader financial services industries. The team has targeted the end of 2013 for the promulgation of the new act.

Industry participants' recognition of the need for more modern legislation to govern the investment funds industry coincides with what the SCB says has been a shift in the international standards for regulation of the sector. According to the Regulator, the approach to regulatory oversight of funds has moved from one that is disclosure-based to one that is prudential in nature.

The IFATT was assembled by the SCB. The members of the team are: Antoine Bastian, President, Genesis Fund Services Ltd., Diveane Bowe, Partner, KPMG; Omara Bingham, Senior Legal Officer, SCB; Brian Jones, Associate Director, UBS (Bahamas) Ltd.; Samantha Knowles-Pratt, Partner, Delaney Partners; Mechelle Martinborough, Legal Counsel, SCB; Michelle Neville-Clarke, Partner, Lennox Patton;

Andre Rahming, Partner, King & Co.; Dirk Simmons, Managing Director, Citco Fund Services Ltd.; and David Thain, General Manager, Arner Bank & Trust (Bahamas).

Financial Secretary Ehurd Cunningham, Ministry of Finance, and Cassandra Johnson, Project Manager, Ministry of Financial Services, also attended the inaugural meeting.

Executive Director of the SCB, Dave Smith, expressed his confidence in the team. He thanked the Ministers for the time taken to sit in on the inaugural meeting, and their valuable input. According to Smith, he hoped it would spur the industry to greater involvement in the process of implementing the best regulatory framework for the Bahamian investment funds industry.

“The SCB employs a consultative process, supported by international standard setters, such as the International Organisation of Securities Commissions (IOSCO), whenever it contemplates significant changes to the regulatory landscape,” Smith said.

“The SCB will draw on the real-world experience of the IFATT to draft the prospective legislation, but will continue to seek and rely on the input of the broader industry at various stages of the process.”

According to Smith, the consultative process was used extensively to formulate the new Securities Industry Act, which was promulgated December 30, 2011, and for a number of supporting consultation Papers which are used to generate supplemental Regulations, Rules, and Guidelines.

The Investment Funds Act was promulgated in 2003, repealing and replacing the Mutual Funds Act, 1995. The IFA introduced the Specific Mandate Alternative Regulatory Test (SMART) Fund – heralded as an example of Bahamian innovation in the creation of financial products by many. Its hallmark features are the flexibility it lends to financial structuring and regulatory oversight specific to the nature of the fund.

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.

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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

Website: www.scb.gov.bs