

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
May 24, 2012

SECURITIES COMMISSION OF THE BAHAMAS HOSTS BRIEFING FOR INVESTMENT FUND ADMINISTRATORS

Investment Fund Administrators received insight into key regulatory developments that will impact their operations and were told to expect increased regulatory vigilance, particularly of Unrestricted Investment Fund Administrators (UIFAs).

The updates came from the Securities Commission of the Bahamas (the Commission) during its Investment Funds Industry Briefing held at the British Colonial Hilton on Thursday, 24 May 2012. The Commission's recently appointed Executive Director, Dave Smith, said the briefing was an important communication medium, in this instance equipping investment funds industry leaders with a better understanding of concerns coming out of the Commission's surveillance of the industry and regulatory developments it foresees impacting them.

"The Briefing is designed to go beyond reinforcing registrants' and licencees' understanding of their obligations, to give the prudent executive the advantage of knowing how the Commission, as the primary regulator for the sector, foresees the regulatory landscape developing over the next few years. It's a tool that we use with the aim of improving compliance for a better regulated sector, simultaneously affording us industry feedback on ongoing and upcoming Commission initiatives," said Smith.

Newly appointed Minister of State for Finance, Michael Halkitis, presented the opening address at the Briefing. With the financial sector about to undergo a high-level review, he said the briefing came at a crucial time that required collaboration, contemplation and preparation for change.

"This briefing comes at a time when the financial services sector of The Bahamas finalises preparations for the World Bank's and International Monetary Fund's (IMF) Financial Sector Assessment, scheduled to commence in July," the Minister said. "The upcoming visit serves as a reminder of the ever-evolving and competitive nature of the industry and the regulatory landscape."

This year's briefing focused on the investment funds industry, an important component of the financial services sector, with 713 licensed funds and 65 registered investment fund administrators operating in or from The Bahamas at 31 December, 2011, according to statistics from the Commission.

Investment fund administrators are categorized as Unrestricted, Restricted or Exempted Investment Fund Administrators under the governing legislation—the Investment Funds Act, 2003 (IFA, 2003). A major focus at the briefing was the Unrestricted Investment Fund Administrator (UIFA) category as they carry unique Risk issues, according to Mechelle Martinborough, the Commission's legal counsel.

In the purview of the Commission, licensed UIFAs have authority under the Investment Funds Act, 2003 to license almost all categories of funds, Martinborough said, as they hold a statutory, rather than a delegated authority from the Commission.

“This independent authority also brings with it a wholly separate and independent exposure to liability,” Martinborough said. “In the circumstances the Commission’s oversight of unrestricted administrators will be heightened.”

The increased oversight is likely to focus on the overall structure and operational issues relating to UIFAs, including the appropriateness of financial resources, human resources, expertise, facilities, technology, and infrastructure, as well as the adequacy of policies and procedures, according to Martinborough.

Denise O’Brien, manager of the Inspections Department at the Commission, said that over the five years between 2007 and 2011, about 72 percent of registered Unrestricted Investment Fund Administrators and around 42 percent of Restricted Investment Fund Administrators underwent onsite examinations conducted by The Commission.

O’Brien reminded participants that the number of breaches may result in more frequent examinations or reclassification of their license, and urged thoroughness and completeness in compliance.

According to Narissa Gaitor, assistant manager of the Commission’s Market Surveillance Department, the fulfillment of standing and material change reporting obligations by registrants and licensees is critical to its proper function. The specific breaches that department observed closely mirrored those encountered by the Inspections Department, according to Gaitor.

Gaitor said that while reasons are presented for late filing issues, ultimately improved compliance levels are desired.

In addition to increased vigilance, Commission consultant Denise-Hinds Jordan gave an overview of some of the ongoing and upcoming initiatives of the Commission. Among them is a proposed new schedule of fees for registrants under the IFA, 2003. According to Hinds-Jordan, the new fee structure, to come into effect 1 January 2013, is a necessary step to improving the independence of the Commission as a regulatory body. Currently some funding for the Commission comes via Government subvention. Hinds-Jordan said that operational independence and the sufficiency of resources to undertake regulatory oversight by securities commissions is a key tenet of the International Organisation of Securities Commissions (IOSCO), detailed in its Principles 2 and 3.

The proposed gross increase in fees averages around 30 percent, according to Hinds-Jordan, who said if adjusted for inflation since the last fee change some 10 years ago represented a real increase of around 12 percent. She noted that this increase would result in fees that are still lower than competitors’, and presents a real growth opportunity for the industry.

The proposed Fee Rule is on the Commission’s website, www.scb.gov.bs, and will remain open for industry consultation through 10 July 2012. The final fee rule is expected to be issued 30 September 2012.

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.

The Securities Commission of The Bahamas

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