

SECURITIES COMMISSION OF THE BAHAMAS

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# PRESS RELEASE

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## Securities Commission: Regulating and Monitoring Public Companies

The Securities Commission of The Bahamas (**the Commission**) has responsibility for the licensing, regulation and supervision of the securities and investment fund industries of The Bahamas pursuant to the Securities Industry Act, 1999 (**the SIA, 1999**), the Investment Funds Act, 2003 (**the IFA, 2003**) and the Financial and Corporate Service Providers Act, 2000 (**the FCSPA, 2000**). Additionally, the Commission is mandated inter alia to formulate principles to regulate and govern investment funds and the securities and capital markets, and to create and promote conditions to ensure the orderly growth and development of the capital markets.

In promoting its mandate the Commission is focused on upholding investor protection, fostering fair and efficient markets and promoting stability in the financial markets. This means that the Commission is responsible for ensuring that investors have the information necessary to make informed decisions when choosing to invest.

To cultivate a fair and efficient securities industry the Commission ensures that market participants and institutions conduct themselves in an ethical manner. The Commission also has an obligation to ensure that potential investors, investors and the persons offering investments are aware of the fundamentals of investing and the rules involved. Ensuring that all parties involved are knowledgeable about the facts helps to promote a level playing field and confidence in the capital markets.

One aspect of the securities and capital markets involves the offering and trading of securities issued by local companies (public issuers). The Commission, aware of recent articles and stories published in the print and broadcast media regarding the activities of public companies, their operations and the potential impact on investors and the market, wishes to highlight, through this Press Release, the provisions of the SIA, 1999 and the accompanying regulations (**the securities legislation**) governing public companies and the Commission's regulatory powers in this regard. This is in keeping with one of the Commission's objectives of fostering investor education initiatives to ensure a sound understanding and knowledge of the workings and regulation of the investment environment.

The Commission discharges its supervision and oversight responsibilities of public companies through the registration and approval process of an initial public offering (IPO) prospectus, ensuring that financial and material change information is made available to the investing public and that companies fulfill proxy requirements as required under the securities legislation. In addition where companies fail to adhere to these provisions, the Commission undertakes enforcement action as provided for under the legislation to bring companies into compliance.

The SIA, 1999 requires that prior to offering its shares to the public, a company must first file a prospectus with the Commission. The prospectus provides important information which is used by potential investors to assess the company. The Commission's role is to review the prospectus to ensure that all material information and risks are disclosed, that the process for taking up the offer is clearly outlined and that the information in the prospectus is sufficient for any potential investor to make an informed decision whether to invest in that company. Involvement in the operational issues of a public company is outside the scope of the Commission's regulatory authority.

In addition to the Commission's regulatory framework and oversight of public companies, the Bahamas International Securities Exchange also exercises regulatory functions delegated to it by the Commission under Section 32 of the SIA, 1999. Through delegated authority, BISX works in assisting the Commission in the oversight of public companies that have shares listed on the exchange. The regulatory functions carried out by BISX are outlined in the pre-approved BISX Rules. The BISX Rules, which are found on BISX's website, speak to conduct of business, trading, an issuer's (or public company's) continuing obligations, complaints, disputes and discipline and other such matters that help to ensure that public companies are acting in an ethical manner. Not all securities issued by public companies are listed with BISX and thus are not governed by its rules which in some cases are more extensive than the requirements of the current legislative framework. The new regime introduced in the new Securities Industry Act (expected to come into force by the end of the year) incorporates the continuous disclosure requirements for listed companies (similar to and as extensive as the BISX rules) and applies these requirements to all public companies. General standards for disclosure, fair treatment of shareholders and the fiduciary duties of officers and directors of public issuers are also mandated, in addition to detailed requirements on disclosure of material changes, provision of annual and interim financial statements, annual reports and on proxy solicitation.

The securities legislation, administered by the Commission, requires that the information provided to the public be accurate and done so in a timely manner; however, it does not guarantee that an investor will not be exposed to risk. The law requires that public companies make full disclosure of all material facts, and the Commission encourages every investor, both sophisticated and first time investors, to understand this information together with the levels of risk involved in their investments. In addition, investors are reminded of the option to seek financial advice from a regulated and licensed financial advisor. Seeking such advice does not remove exposure to risk, but can minimize exposure to it.

**The Securities Commission of The Bahamas ("the Commission") is a statutory body established in 1995 pursuant to the Securities Board Act, 1995, which was repealed and replaced by the Securities Industry Act, 1999 (the SIA). The Commission is responsible for the administration**

of the SIA 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 Service Providers effective 1 January 2008, is also responsible for administering the Financial and Corporate Service Providers Act, 2000.

The Commission's mandate is to formulate principles to regulate and govern investment funds, securities and capital markets; maintain surveillance over investment funds, securities and capital markets ensuring orderly, fair and equitable dealings; create and promote conditions to ensure orderly growth and development of capital markets; and to advise the Minister of Finance regarding investment funds, securities and capital markets.

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