



## **Enhanced Securities Regulation In The Bahamas: Securities Industry Act, 2011**

### **What does it do?**

A new Securities Industry Act, 2011 ("SIA") became law on 30 December 2011 repealing the former Securities Industry Act, 1999 ("old Act") and Parts VI, VII and IX of the Investment Funds Act, 2003 ("IFA").

The SIA requires persons carrying on securities business in or from The Bahamas or any person who purports to do so, to be registered with the Securities Commission of The Bahamas (the "Commission") unless such person is otherwise exempted. The licensing of persons carrying on business as an investment fund or an investment fund administrator remains under the IFA. Securities business includes dealing, arranging deals in securities, managing or advising on securities. Securities include, shares, equity interests, debentures, bonds, warrants, options, futures and contracts for differences to name a few.

The SIA enhances the Commission's disciplinary and investigative powers and its power to conduct inspections and to retrieve information from its registrants to assist both domestic and international regulators.

The SIA codifies some previous practices and introduces the concept of an approved foreign issuer while continuing to provide for the regulation of securities offers in The Bahamas, public companies now known as public issuers and securities exchanges, such as BISX which are now called marketplaces.

### **What are the main changes in registration?**

Unlike the old Act, persons will be registered under the SIA to engage in a certain activity rather than being registered according to prescribed titles. For instance, entities which deal or trade in securities or manage or advise on securities will be registered to deal in securities, arrange deals in securities, manage securities or advise on securities, as applicable, as opposed to being registered according to prescribed titles such as broker-dealer or securities investment advisor. Such entities are now known as registered firms. The SIA continues to require the registration of personnel of registered firms performing securities related activities.

### **What does it mean for The Bahamas and IOSCO?**

The SIA enables The Bahamas to now seek full signatory 'A' status under the



International Organization of Securities Commissions' ("IOSCO") Memorandum of Understanding that would signify The Bahamas' full compliance with exchange of information and enforcement requirements of IOSCO. Currently The Bahamas has signatory "B" status.

## **What does this mean for you?**

Persons registered under the old Act ought to ensure that they have been correctly re-categorised under the SIA. The Commission has issued letters to registrants informing them of their new categories of registration and these letters ought to be reviewed carefully and legal advice obtained if needed. In addition, registrants are to become familiar with the reporting requirements of registrants under the SIA including time restrictions on reporting and filings.

For investment funds regulated under the IFA the on-going filing and reporting requirements of such funds remain under the IFA but the SCB's on-site and off-site examination powers and the SCB's supervisory authority over such funds are now contained in the SIA.

## **How can we help you?**

Existing securities businesses may benefit from Delaney Partners' advice on the category of registration which may apply, taking into consideration your securities business activities, and with updating your organisation's internal policies and procedures to ensure that they remain compliant in light of the SIA.

New registrants may benefit from our advice on the process to become registered and the application process generally.

For additional information please contact Samantha Knowles-Pratt at [skpratt@delaneypartners.com](mailto:skpratt@delaneypartners.com)

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