



Physical Presence Via "Managing Representative"

Persons engaged in the business of advising on or managing securities have the flexibility of setting up business in The Bahamas without having, directly, to be physically present. This concept has been carried over from prior legislation and policies of the Securities Commission of The Bahamas ("SCB") which permitted securities investment advisors to establish physical presence via a "managing representative". The difference now is that this flexibility is only available to those firms who advise on or manage securities.

What is physical presence?

Generally, all persons engaged in securities business activities in or from The Bahamas are required, in order to obtain registration with the SCB, to have a physical presence in The Bahamas. This includes having within The Bahamas: (i) governance and management (a chief executive officer and at least one director) (ii) premises and facilities and (iii) records and record-keeping arrangements.

How can physical presence be met via a "managing representative"?

Persons who advise on or manage securities who wish to conduct business in or from The Bahamas may satisfy the physical presence requirements via the appointment of a managing representative. The managing representative may be an entity already in The Bahamas conducting business and approved by a Bahamian regulator.

Under such an arrangement, the managing representative would meet the minimum physical presence requirements of the applicant. That is to say, the managing representative would provide for and on behalf of the applicant, governance and management, premises and facilities and records and record-keeping arrangements in The Bahamas.

Who can be a "managing representative"?

Entities incorporated or registered in The Bahamas and licensed as (i) a registered firm with the SCB (with full physical presence) (ii) an investment fund administrator (operating in The Bahamas) (iii) a financial and corporate services provider or (iv) an unrestricted bank or trust company may be a managing representative. Additionally, the managing representative will have to demonstrate: (a) knowledge of the type of business activities of the applicant firm (b) that it has technical and managerial resources to act as managing representative and (c) operational capacity to meet its obligations as a managing representative.

The managing representative must have the prior approval of the SCB with an application being made by the applicant firm that is desirous of appointing the managing representative. As part of the application for approval, a service level agreement



(meeting the prescribed requirements) must be submitted.

Notwithstanding the appointment of a managing representative, the applicant firm will remain responsible for compliance with all regulatory requirements under the Securities Industry Act, 2011 and all of the usual due diligence would still need to be met by the applicant.

What are the benefits?

The applicant may be licensed to conduct business in or from a tax neutral and well regulated jurisdiction without having to incur the additional expense attached to establishing physical presence on its own.

For more information on how to set up a managing representative relationship or on setting up a securities business in The Bahamas generally, please contact partner Samantha Knowles-Pratt (skpratt@delaneypartners.com).

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